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MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON MONDAY, 28 SEPTEMBER, 2009

MIONTUAIRISCÍ NA CRUINNITHE MHIOSIÚIL DE COMHAIRLE CONTAE CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN CHONTAE, TRÁ LÍ, AR AN LUAN , 28 MÉAN FÓMHAIR, 2009

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

R. Beasley	J. Brassil	T. Buckley
M. Cahill	P. Connor-Scarteen	B. Cronin
P.J. Donovan	T. Ferris	J. Finucane
S. Fitzgerald	T. Fleming	N. Foley
M. Gleeson	B. Griffin	D. Healy-Rae
M. Healy-Rae	P. Leahy	P. McCarthy
A. McEllistrim	M. Moloney	B. O'Connell
P. O'Donoghue	M. O'Shea	L. Purtill
J. Sheahan	A.J. Spring	

IN ATTENDANCE/I LÁTHAIR

Mr. T. Curran, County Manager	Mr. J. O'Connor, Head of Finance
Mr. J.D. Flynn, Director of Corp. Servs	Mr. M. McMahon, Director of Planning
Mr. O. Ring, Director of Water Servs	Mr. J. Breen, Dir. Housing & Comm & Ent
Ms. A. Haugh, Director of Env'l Servs	Mr. C. O'Sullivan, Director of Roads
Mr. G. O'Brien, Meetings Adminr.	Mr. P. Corkery, Press & Comm.
Ms. D. Griffin, SO Corporate Affairs	Ms. M. Galvin, CO Corporate Affairs
Ms. O. O'Shea, CO Corporate Affairs	Mr. M. Boyce, A/SE Environment
Ms. J. McCarthy, SEO Planning	Mr. P. O'Sullivan, A/SO Corp Affairs

The meeting commenced at 10.35 a.m.

Mayor B. O'Connell took the Chair.

Vote of Sympathy

Cllr. M. Healy-Rae extended a vote of sympathy to the family of the late Mr. James O'Shea (Address withheld for Data Protection purposes). He expressed his sympathy to Mr. O'Shea's wife and family. Mr. O'Shea was a staff member of the Roads Area staff and did great work for Kerry County Council and worked hard to keep the area he worked in looking well.

Cllr. D. Healy-Rae said he wished to be associated with this vote of sympathy and extended his sympathy to Mr. O'Shea's wife and family.

Mayor O'Connell said this vote of sympathy is being allowed as Mr. O'Shea was a staff member of Kerry County Council. He issued a reminder to elected members that votes of sympathy are to be recorded in the Votes of Sympathy Book.

Vote of Sympathy

Mayor O'Connell extended a vote of sympathy to Cllr. Marie Moloney on the death of her mother.

All members wished to be associated with this vote of sympathy.

Vote of Congratulations

Cllr. M. Gleeson extended a vote of congratulations to Cllr. Brendan Griffin on his recent marriage.

Cllr. N. Foley seconded this vote of congratulations.

Vote of Congratulations

Cllr. M. Gleeson extended a vote of congratulations to the Kerry Team on winning the All-Ireland Senior Football Championship.

All members wished to be associated with this vote of congratulations.

Cllr. M. Cahill PROPOSED that a Civic Reception be held for the Kerry Team.

Cllr. M. Healy-Rae SECONDED this proposal.

Tragedy on Skellig Michael

Cllr. M. Cahill said another tragedy has occurred on Skellig Michael, the second tragedy in 2009. He asked that letter issue to the OPW regarding the safety of Skellig Michael.

Emergency Motion – Eircom Mast at Annascaul

Cllr. B. Griffin PROPOSED an Emergency Motion with regard to planning permission for an Eircom mast in Annascaul. He said the situation has deteriorated and protesting residents are remaining at the site day and night.

Cllr. J. Sheahan SECONDED this motion.

Mayor B. O'Connell said he would not allow an emergency motion on this issue. He asked that the residents would make direct contact with him on this matter. He acknowledged that the residents have made a strong case on this matter, however, he would not allow this emergency motion to proceed.

Cllr. M. O'Shea PROPOSED that the statement from Annascaul residents be read into the record of the meeting.

Cllr. J. Brassil SECONDED Cllr. O'Shea's proposal. He said it has always been a tradition that if a situation arises whereby there is no time to table a Notice of Motion for a meeting that an emergency motion would be allowed at the start of the Council meeting. The residents of Annascaul have been campaigning day and night on this issue to protect their rights.

Mayor O'Connell said he would allow the statement from Annascaul residents to be read into the record of the meeting at 3.00 p.m., however, there will be no discussion on the issue. He acknowledged the pressure that is on the elected members regarding this issue.

Cllr. M. Healy-Rae thanked the Mayor for allowing the statement to be read at 3.00 p.m. as a number of elected members had attended a meeting on Friday, 25th September, 2009, and had given a commitment that this issue would be considered by Kerry County Council.

Get Well Wishes

Cllr. P. Leahy PROPOSED that get well wishes be sent to Cllr. T. O'Brien.

All members wished to be associated with this vote of get well wishes to Cllr. T. O'Brien.

09.09.28.01 Mayor's Report on CPG Meeting held on 22nd September, 2009

Mayor B. O'Connell read the following report into the record of the meeting.

Item 1 Agenda for the September Council Meeting

Mr. G. O'Brien, A/SEO Corporate Affairs, briefed members on the agenda for the September Council meeting.

In relation to Item 7, Strategic Policy Committees Scheme, Mr. G. O'Brien outlined that one submission was received from the Environmental Pillar and issues raised in the submission are dealt with in the report circulated for consideration of the members at the September Council Meeting.

Item 2 Corporate Plan 2009-2014

Mr. J.D. Flynn, Director of Corporate Services, referred to the updated Draft Corporate Plan 2009-2014 which had been circulated to CPG members. The Local Government Act 2001 requires that the Corporate Plan be adopted by Council within six months, in a local election year, from the date of the annual meeting. It is proposed that the Draft Corporate Plan will be considered for adoption at the November 2009 Council meeting. He requested that comments on the draft Corporate Plan be submitted to Director of Corporate Services prior to the October CPG meeting.

Item 3 Protocol for Civic Receptions

Mr. J.D. Flynn, Director of Corporate Services, outlined that towards the end of the term of the last Council it was suggested that a group be established to develop a Protocol for Civic Receptions. It is now suggested that the CPG take on the role to develop a Protocol for Civic Receptions and make a recommendation to Council.

It was agreed by the CPG members that the CPG will develop a Protocol for Civic Receptions and make a recommendation to Council.

Item 4 PPP Projects Process - Review

Mr. J. O'Connor, Head of Finance, said this item is arising from a Notice of Motion, tabled by Cllr. J. Finucane, and considered at the July Council meeting. Cllr. Finucane called for a simplified process regarding PPP Projects which would lead to private money to be forthcoming to invest in infrastructure. At present there are strict conditions in place for public sector involvement in PPPs. While the public sector can borrow on a much more competitive basis than the private sector, infrastructure provided, such as Water or Waste Water Treatment Plants also carry operational and maintenance costs. In addition there is also the payback of loans for the local share out on the PPP project. It appears that private funding is available for PPP projects and elected members could consider making a submission to Government requesting the provision of an infrastructural bond that would yield a reasonable but modest rate guaranteed by the state. Any amendment to the PPP process would be applied nationally and could not apply for County Kerry alone.

Item 5 Non-Principal Private Residence €200 Charge

Mr. J. O'Connor, Head of Finance, updated the CPG members on the Non-Principal Private Residence €200 Charge. At the July CPG meeting it was outlined that Kerry County Council had been notified by the Department of the Environment, Heritage & Local Government of a reduction of €879,752 (3.22%) in the provisional 2009 General-Purpose Grant allocation from the Local Government Fund. Collection of water charges and rates in particular will be difficult in 2009. It is essential that the flow of credit is released from banks to genuine enterprises and businesses in the county. This is one of the key factors that will affect the level of rates collection. In monitoring collection of charges and rates the income from the NPPR is borne in mind. To date Kerry has collected approximately €400,000. The Town Councils share out will be approximately €130,000 with Kerry County Council receiving €270,000. A radio advertisement is running at present regarding the NPPR and it is hoped Kerry County Council will receive a net income of €500,000-€600,000.

Item 6 Drinking Water Source Protection – Farm Inspection Programme

Ms. A. Haugh, Director of Environmental Services, said the issue of farm inspections was raised at a previous Council meeting regarding the implementation of the Nitrates Directive and Kerry County Council's role with farm inspections.

Mr. M. Boyce, A/Senior Engineer, said the Environment Department will be carrying out a Farm Inspections Programme for the purpose of protecting drinking water sources. This programme is aimed at identifying potential risks to drinking water sources. The Farm Inspections Programme will commence with the commence in the Gearha River Catchment which is the source for the Mid-Kerry Water Supply. The inspections scheme will be extended to further catchments over time. Details of the overall programme will be agreed with the Water Services Department and will be primarily based on the Water Services Department's assessment of the catchments at highest risk

Item 7 County Development Board Update

Mr. J. Breen, Director of Housing and Community & Enterprise, updated the CPG meeting on the County Development Board and outlined that:

- Briefing meeting has been held with the new Chairman nominated by Council (Cllr. A.J. Spring).
- CDB must be reconstituted and all organisations have been contacted regarding nominees.
- Community and voluntary sector elections this week and last week.
- The issue of Local Development representation has not yet been resolved. There are four Local Development organisations in the county and only two representatives on the CDB.
- It is proposed to hold the first meeting of the CDB in mid-October whether or not nominations have been received.
- The initial meeting will focus on educating the new board on CDB structures.
- There will be a focus on interagency enterprise development and information exchange to foster enterprise and job creation in the present environment.
- The CDB will need to set out a realistic and realisable work programme for the coming year.
- Sub-structures of the CDB (SIM Group, Tourism Strategy Group, Community & Voluntary Forum, Integration Strategy Group and KEAT) are continuing their work programmes.

Item 8 Any Other Business

Mr. G. O'Brien circulated correspondence received from the Tralee International Children's Games Ltd. regarding their bid to host the International Children's Games in 2012.

It was agreed by the CPG members that the Tralee International Children's Games group be invited to make a presentation to the October Council meeting.

Manager's Orders

Mr. G. O'Brien, Meetings Administrator, advised elected members that Manager's Orders are available for review at today's Council meeting and will be available at future monthly meetings.

Non-Principal Private Residence (NPPR) Charge

Cllr. M. Gleeson said he had received numerous calls regarding the NPPR charge. There is confusion regarding a number of issues such as the 2km clause and if a person is living in their own house and builds a house which is then put up for sale it appears they do not have to pay the NPPR charge. People need clarity on these issues. He asked if there could be an extension to the deadline for payment of the NPPR charge.

Cllr. M. Healy-Rae agreed with Cllr. Gleeson's comments and said another issue has arisen whereby the Department of the Environment, Heritage & Local Government has indicated that if a person has a family member who has a vested, registered, legal right of tenancy that the property can be located a distance of up to 4km away from the principal residence and it would be exempt from the NPPR charge. This is causing further confusion. He asked if a second house is exempt if a family member is living in it. He also asked if the money that will accrue in County Kerry will stay in the county and how will it be used.

Mr. J. O'Connor, Head of Finance, said a number of issues have been raised and like any new charge it takes a while to understand it. There is a useful Frequently Asked Questions section on the NPPR website and it is also on the Kerry County Council website. The FAQs section is being updated at national level as legal interpretations are becoming clearer and the additional information will be published on the website. The NPPR charge is being administered by the Revenue Department of Kerry County Council. A unit has been established within that department dedicated to answering queries and helping people with registration. The 2km rule referred to relates to "granny flats". This was an amendment introduced by the Minister as the Bill was going through the Dáil to deal with second houses and maisonettes that may have been added to a building to aid elderly parents or close family relations. Any person that has a specific query should contact the Revenue Department. The payment dates for the NPPR charges are incorporated in law and they cannot be changed without a further Act going through the Oireachtas and being signed by the President changing that law. At present the law provides that the payments are to be made by 30th September, 2009. Registrations during the month of October could be subject to fines but they will not incur the late penalty payment of €20 per month.

There is a lot of publicity regarding the NPPR charge at present and there has been a good standard of compliance locally and nationally. A radio campaign was running last weekend and over the past week along with newspaper advertisements. As at 24th September, 2009, €11.5 million had been collected nationally. With regard to 2009 it is definite that money collected in Kerry will stay in Kerry. The money accruing

to Kerry is in respect of dwellings located in the county irrespective of where the money is paid. All money goes into a national account and is distributed to the Local Authority within whose area the house is located. All monies paid in respect of eligible properties in Kerry will come back to Kerry. 94% of all payments are being received on-line. Over the counter payments are being accepted by Kerry County Council but the use of the NPPR.ie website is encouraged. While the €200 charge is quite reasonable, the late payment fees will mount up quite quickly. The driving force of the publicity campaign is that self assessment and self regulation applies for the NPPR charge. The onus is on the property owner to register and pay the charge. The property owner must be aware that the late payment fees mount up and the Local Authority has no discretion on that accrual. There is also a possibility of fines at a later stage.

Cllr. J. Brassil asked if a person who lives outside of Ireland and has inherited a house in Ireland and visits infrequently is eligible for this charge.

Mr. J. O'Connor, Head of Finance, confirmed that a person in this situation is eligible. Irrespective of where the property owner lives they are eligible for this charge. He asked that elected members would speak to him directly regarding specific cases after the Council meeting.

Cllr. P. O'Donoghue asked if there is an administrative error regarding notices being issued in relation to the NPPR charge. Kerry County Council are using information from the Private Rented Tenancies Board (PRTB) and he is aware of cases where both a husband and wife have been notified of the NPPR charge on a property.

Mr. J. O'Connor, Head of Finance, said the data being used has been generated by the PRTB. From that data Kerry County Council is making some effort to let people know about the NPPR charge. This is an advisory letter only. When the property owner contacts the Revenue Department this will be addressed.

Following a query from Cllr. J. Sheahan, Mr. J. O'Connor said late payment penalties will accrue from 1st November, 2009, with regard to the 2009 NPPR liability.

Following a query from Cllr. M. Gleeson, Mr. J. O'Connor confirmed that a reimbursement is allowable if a person has paid the NPPR charge in error. He said a national information leaflet on the NPPR charge will be available this week and he undertook to issue this leaflet with a copy of the Frequently Asked Questions and contact details for the Revenue Department to all elected members.

09.09.28.02 Confirmation of Minutes

- (a) On the PROPOSAL of Cllr. N. Foley, SECONDED by Cllr. J. Finucane, it was resolved that the Minutes of the July Ordinary Meeting of Kerry County Council held on 20th July, 2009, be confirmed.
- (b) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. D. Healy-Rae, it was resolved that the Minutes of the Special Meeting of Kerry County Council held on 4th September, 2009, be confirmed.

09.09.28.03 Material Contraventions

(a) Material Contravention of the Kerry County Development Plan 2009-2015 and the Castleisland Local Area Plan 2004

Mr. G. O'Brien, Meetings Administrator, read the following report:-

Implementation of the Material Contravention Procedure under and in accordance with Section 34 of the Planning & Development Act, 2000 in relation to application for **permission** to erect a Nursing home facility per planning reg. no 08-2310.

<u>Name of Applicants:</u>	(1) (Name withheld for Data Protection purposes) & (2) (Name withheld for Data Protection purposes)
<u>Planning Reg. No.</u>	08-2310
<u>Address of Applicant:</u>	(1) (Address withheld for Data Protection purposes). (2) (Address withheld for Data Protection purposes)
<u>Agent:</u>	(Name withheld for Data Protection purposes)
<u>Location of Proposed Development:</u>	Bawnluskaha, Castleisland
<u>Nature/Description of Proposed Development:</u>	<p>The subject development comprises the following elements:</p> <ul style="list-style-type: none">• 65-bed nursing home (2916-sq.m.) with associated amenities, facilities and services, stepped over two levels.• A car parking area.• A landscaped area.• It is proposed to connect to mains water and sewerage services.
<u>Date Application Lodged</u>	13-10-08, further information lodged 13-7-09 Material contravention procedure initiated with publication of the prescribed notice in the Irish Examiner newspaper on 04/08/2009
<u>Decision Due Date:</u>	28/09/2009
<u>Location:</u>	The site is located off the Crag Cave local road, in the town of Castleisland approx. 500 m northeast of Main Street.
<u>Planning History:</u>	No planning history on this site.
<u>Reports:</u>	<p>(i) Reports dated 24/10/2008 and 17/09/2009 from Water Services Dept.: No objection subject to certain conditions, i.e. conditions nos 6 & 7 hereafter.</p> <p>(ii) Report from Kerry National Road Design Office dated 28/07/2009: No observations to make in so far as it relates to the proposed N21 in relation to proposed N21 Castleisland Bypass Road Improvement Scheme.</p> <p>(iii) Report from Roads Department dated 29/07/2009: No objection subject to certain conditions, i.e. conditions nos. 5 & 8 hereafter.</p>

Objections/Observations

(Name withheld for Data Protection purposes) / (Name withheld for Data Protection purposes)

- Impact of overlooking should be minimised
- Boundary treatment
- Public sewer availability

Observation noted.

Appraisal:

The site is approximately 500 m from the town centre but is not served by a footpath. The lands are zoned Agricultural under the 2004 LAP. Retirement and nursing home uses are not normally considered within this zoning. However, having regard to the location of the site adjoining land zoned for residential development, the nature of development proposed for the site and the nature of the residential accommodation and services being provided, I consider that the proposed development would generally accord with the land use zoning objectives subject to minimising associated impacts on amenity, traffic and public health. This location, which will facilitate the interaction of residents with the existing community and the use of existing infrastructure and services, including shops, churches etc., is preferable to isolated rural locations for retirement / nursing home facilities.

A traffic impact assessment and Road safety audit were submitted as part of the further information. This is considered acceptable.

It is proposed to pump into the public sewer. This is considered acceptable.

Recommendation: Grant permission subject to the conditions listed hereafter, 14 no. conditions:

Conditions

1. The development shall be carried out in accordance with plans and particulars received on 13/10/2008, 13/07/2009 & 14/07/2009 except for where altered herein.

All site development works and services shall be carried out in accordance with the Department of the Environment publication 'Recommendations for Site Development Works for Housing Areas.'

Reason: In the interests of orderly development.

2. Prior to the commencement of development the developer shall pay a contribution of €27,625.00 to Kerry County Council (Planning Authority) in respect of public water and sewerage infrastructure and facilities benefiting the development. The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2010 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Councils prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

3. Prior to the commencement of development the developer shall pay a contribution of € 25,081.00 to Kerry County Council (Planning Authority) in respect of amenity facilities. The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2010 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Councils prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

4. Proposed nursing home shall be constructed in accordance with the design drawing received on 13/07/2009.

Each roof shall be covered with slates or tiles which shall be either black, dark-grey or blue-black. The colour of the ridge tile shall match the colour of the roof.

Stone work to the external walls shall be constructed of natural stone which shall be sourced locally.

The use of white uPVC is not permitted to doors, windows fascias within the development. The use of timber, timber finish uPVC is permitted.

Reason: To integrate the structures into the surrounding area.

5. • All roadway and boundary treatment works shall be carried out as per revised site layout map submitted to the Planning Department on 13/07/2009.
- The roadside boundary shall be recessed a minimum of 2 meters from the edge of the public roadway. The front boundary shall be set back behind the maximum sightlines displayed as on the site layout map submitted to the planning department
 - Footpaths to be provided as per site layout map submitted. A footpath 2 meters wide is to be provided along the roadside boundary of the development, abutting the recessed front boundary of the development. All footpaths to be disabled accessible and have a minimum width of 2 meters. A footpath shall be laid between the existing footpath terminus on the western side of the road to the Northern boundary of the site. All public lighting, Eircom and electric ducting are to be provided for. All public lighting facilities are to be provided for along the entire length of the development. Final details to be agreed with the Area Engineer prior to the commencement of the development.
 - The roadside edge shall be a line of concrete kerbs 250 X 125 in cross section laid outside and against the existing ESB poles. A 350 wide concrete channel shall be laid outside the existing kerbing line having a minimum depth of 175mm.
 - Copies of agreements completed with adjoining landowners, including maps

showing areas being acquired for the footpath shall be submitted to the Planning Department before any works commence on site.

- Final details of the treatment of the area between the public roadway and the recessed front boundary shall be agreed with the Area Engineer prior to the commencement of the development. This will include the provision of roadside footpaths, electrical and Eircom ducting and surface water drainage facilities etc.
- The recessed roadside boundary shall be constructed to a height of not more than 1 meter over the level of the public roadway
- The access road and the area between the public road and the recessed boundary of the development to be finished with 75mm dense bituminous macadam wearing course at the same level as the public road, on well consolidated Clause 804 graded material on selected hardcore.
- All services for the development shall be located underground.
- Adequate gullies shall be included within the development to ensure satisfactory surface water drainage.
- Under no circumstances shall surface water within the proposed development be allowed to flow onto the public road. Details showing the disposal of surface water to be approved prior to the commencement of the development.
- Works along the public road shall not interfere with roadside drainage which shall be maintained, repaired or made good to the satisfaction of the Planning Authority.
- The area between the front boundary and the public road or the creation of the splayed entrance shall not interfere with roadside drainage, which shall be maintained, repaired or made good by providing a concrete dished water channel and/or piped drain to the satisfaction of the Planning Authority.
- The Applicant shall provide appropriate measures to prevent material being drawn from the site onto the public road.
- Adequate parking to be provided for within the development.
- All paved walkways/footpaths shall be as per site layout map submitted 31-7-09. All paved walkways/footpaths to be disabled accessible. Pedestrian ways from the car park to the development should be included.
- The proposed pedestrian way from the development to the public roadway shall be disabled accessible

Reason: In the interest of traffic safety and orderly development.

6. A water mains extension, at the expense of the developer, will be necessary to service the site. On completion this main will be in the charge of Kerry County Council.

Water pressure at the proposed site will not be adequate for this development. A pumping station will be required on the proposed site. This will be at the developer's expense.

An outdoor water storage tank for fire fighting purposes and a 100 mm diameter ring main with hydrants is required. Location of fire hydrants to be agreed with Chief fire officer.

Internal water storage equivalent to 24 – 36 hrs storage shall be provided.

The proposed use for this development is for an aged care residential facility. Kerry County Council will never take the proposed water pumping facility or the water main within the site in charge.

Reason: in the interest of public health and sustainable development

7. The water and sewerage services shall be provided exactly in accordance with the plans and particulars submitted to the Planning Authority on 13/10/08 and 13/07/2009 except for any alterations specified in these Conditions.

All services shall be provided in accordance with the standards as set out in the Department of Environment, Heritage and Local Government document "Recommendations for Site Development Works in Housing Areas".

No storm water runoff, including roof water, shall be allowed enter the foul sewer system.

Prior to the release of the Bond on completion or partial completion of the development, or prior to the taking in charge of the development by the Planning Authority, a Certificate, which certifies that the water mains, and foul and surface water sewers have been provided in accordance with the plans and particulars received on 13/10/2008 and 13/07/2009 by the Planning Authority, except for any modifications or alterations specified in the conditions attached to the Planning decision, should be provided by a qualified person and submitted to the Planning Authority.

Prior to the release of the Bond on completion or partial completion of the development, or prior to the taking in charge of the development by the Planning Authority, a closed circuit TV video or DVD of the completed sewers, and an accompanying Report, shall be submitted to the Planning Authority.

The proposed rising main shown connecting this development to the public sewer shall be laid at the applicant's expense and shall require a road opening licence from the Roads and Traffic Section of Kerry County Council.

Reason: To ensure the proper provision of the services.

8. Under no circumstances shall the applicant\developer cut or otherwise interfere with the public road for the purposes of connection to public services without a road opening licence.

Reason: In order to protect public property.

9. (a) Prior to the occupation of nursing home, all site development works shall be substantially completed in accordance with the conditions attached to this decision in order to ensure an adequate means of access and the provision of all services to facilitate the development.

- (b) On completion of each phase of the development, the developer shall submit a certificate from an approved person stating that all the works carried out to-date on the development are in accordance with:

The 'Recommendations for Site Development Works for Housing Areas' as issued by the Dept. of the Environment and Local Government

Any other condition which may have been imposed as a condition of planning

- (c) On completion of the works the developer shall submit a set of as-constructed drawings indicating the on-site position of all structures and services. These drawings shall include the location of all sewers, water mains, ESB and Telecom ducting.

Details of all pipes sizes, inverts, manholes, cover levels, hydrants and stopcock locations as well as records of all pipe tests shall be included as a minimum.

- (d) The proposed service roads and paths shall be maintained to allow for the easy passage of pedestrians and vehicles throughout all stages of the development and building construction.

Reason: In the interest of orderly development

10. Prior to the commencement of any works on site, the developer shall carry out an evaluation and quantification of all construction, and excavation waste (including hazardous waste) likely to arise during all phases of development/construction and shall develop a waste management and disposal plan for all such wastes arising. A copy of this plan shall be submitted to the Planning Authority for agreement and approval prior to Commencement Notice stage.

Reason: In the interests of orderly development.

11. (a) All landscaping and tree planting shall be carried out in public and private areas in accordance in the landscaping plans received on 13/07/2009.
(b) Any failure of plant/shrubs/tree through disease, damage or removal within the first three years after planting shall be replaced by such similar species.
(c) All hard surfacing, kerbing, paving shall be carried out in accordance with plans and particulars received on 13/07/2009.
(d) All boundary treatment shall be carried out in accordance with plans and particulars received 13/07/2009.

Reason: In the interests of visual amenity.

12. Site construction working hours shall be confined to between 0730 hours and 1900 hours on Monday to Friday and 0800 hours to 1830 hours on Saturdays. No on-site works shall be permitted on Sundays or Public Holidays without the prior written agreement of the planning authority.

Reason: In the interest of protecting residential amenity.

13. A proposed colour scheme for the nursing home shall be submitted for agreement to the Planning Authority prior to the commencement of development.

Reason: To integrate the development into the surrounding area.

14. Notwithstanding the provisions of the Planning and Development Regulations, 2001, as amended, no change of use or extension is permitted within the development without a prior grant of permission for such development.

Reason: To ensure the preservation of a good standard of amenity.

Mayor B. O'Connell PROPOSED in accordance with the provisions of Section 34(6)(a) of the Planning & Development Act 2000, that permission be granted to (Name & Address withheld for Data Protection purposes), and (Name & Address withheld for Data Protection purposes), for the construction of (a) Nursing Home care facility including 65 bedrooms and ancillary rooms, (b) car parking and access road, (c) bin storage, (d) services building, (e) electricity substation, (f) all associated site works at Bawnluskaha, Castleisland, Co. Kerry, in accordance with plans submitted on Planning Register No. 08/2310 which development would materially contravene the Kerry County Development Plan 2009-2015 and the Castleisland Local Area Plan 2004.

Cllr. B. Cronin SECONDED this proposal.

A vote was taken which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, Connor-Scarteen, Cronin, Donovan, Ferris, Finucane, Fitzgerald, Fleming, Foley, Gleeson, Griffin, D. Healy-Rae, M. Healy-Rae, Leahy, McEllistrim, Moloney, O'Donoghue, O'Shea, Purtill, Sheahan, Spring, O'Connell **(25)**

Against: None **(0)**

Not Voting: None (0)

Absent: Cllrs. McCarthy, O'Brien (2)

Mayor O'Connell declared the resolution CARRIED.

(b) Material Contravention of the Kerry County Development Plan 2009-2015

Mr. G. O'Brien, Meetings Administrator, read the following report:-

Implementation of the Material Contravention Procedure under and in accordance with Section 34 of the Planning & Development Act, 2000 in relation to application for **permission** for the construction of a single storey dwelling and ancillary works with Envirocare Sewage Treatment Plant at Parkavonear, Aghadoe, Killarney.

Planning Register No. 09/127

Name of Applicant: (Name withheld for Data Protection purposes)

Address of Applicant: (Address withheld for Data Protection purposes)

Agent: (Name & Address withheld for Data Protection purposes)

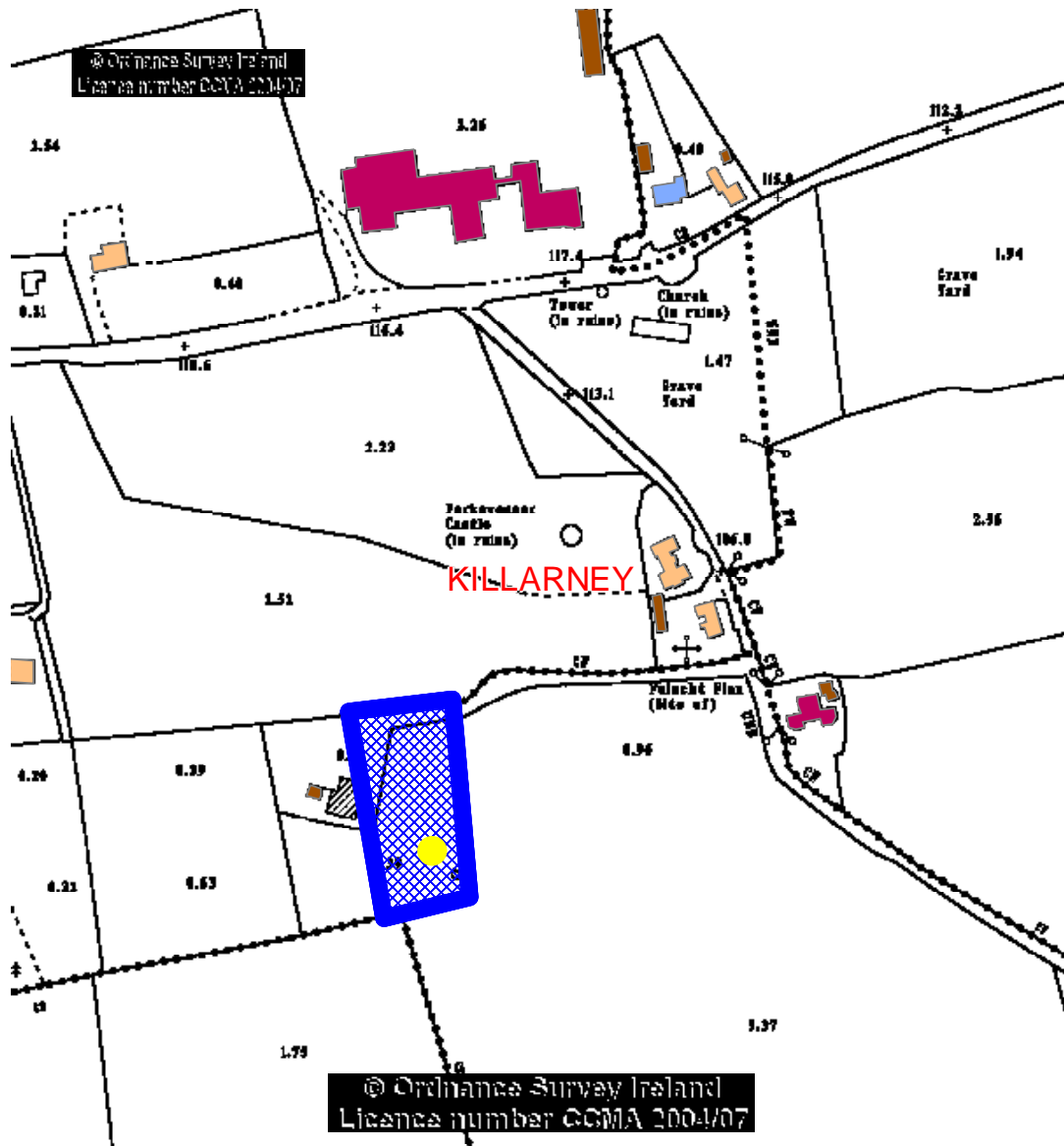
Date application lodged: 04/02/2009

Date further information received: 24/04/2009, 05/06/2009, 12/06/2009 and 13/07/2009.

Decision due date: 28/09/2009

Site Location Maps





Pre-Planning Consultation

None

Proposal

Construct a single storey dwelling house with external walls finished in stone and served by a proprietary wastewater treatment system and polishing filter

Description of Site and Surroundings

The site adjoins a narrow cul-de-sac private road which connects to Bohereen Na Marbh approx 150 metres to the east. Bohereen na Marbh is a narrow link road which is not in the charge of Kerry County Council and which connects Aghadoe to the N72 Ring of Kerry Road to the southeast. The application site is bounded to the north by the cul-de-sac access road, to the east and south by agricultural fields and there is an existing dwelling house on the adjoining site to the west. The site slopes quite steeply from north to south and has a grass covering. There are mature boundaries around the site with deciduous trees on the eastern and southern boundaries and coniferous trees on the western boundary.

Zoning and Designations

The site is located in a rural area zoned Prime Special Amenity

Relevant Planning History

Planning Register No. 93/387

Application for Outline Planning Permission by (Name withheld for Data Protection purposes) to erect a dwelling house.

Decision: Refused by Kerry County Council

Planning Register No. 94/149

Applicant for Planning Permission by (Name withheld for Data Protection purposes) to erect a dwelling house

Refused by An Bord Pleanála for the following reason:

1. Having regard to the elevated, prominent and steeply sloping nature of the site, which is located in an area that has been designated in the current Kerry County Development Plan as an area of Primary Special Amenity (which designation is considered to be reasonable), it is considered that the proposed development would be unduly obtrusive on the landscape and would militate against the preservation of the visual amenities of the area, which are considered worthy of preservation.

Planning register No. 07/92193

Application by (Name withheld for Data Protection purposes) for Planning Permission to construct a single-storey dwelling and ancillary works with Envirocare Sewage Treatment Plant

Application withdrawn by applicant

Reports

- (1) Water Services Dept., Kerry County Council – received on 18/02/2009
No comment – It is proposed to connect dwelling house to public water supply.
- (2) County Archaeologist, Kerry County Council – received on 25/02/2009
The proposed development abuts the marked zone of archaeological potential, as defined in the Record of Monuments and Places, around recorded monument Ke029 018, a fulacht fiadh. However, there is sufficient distance between the monument and the proposed development. No mitigation is required. It is noted that, given the proximity of the site to the National Monument complex (Aghadoe Church and Round Tower and Parkavonear Castle) Ministerial Consent may be required for this development as specified under Section 14 of the National Monuments Acts.
- (3) Site Assessment Unit, Kerry County Council
 - (a) Report of 27/02/2009 – Recommendation to seek further information
 - (b) Report of 07/05/2009 – Recommendation to seek clarification of further information
 - (c) Report of 12/06/2009 – Recommendation to seek further clarification of further information
 - (d) Report of 27/07/2009 – Recommendation of conditions to be attached in the event of a grant of planning permission.

Submissions/Observations

(1) An Taisce – received on 02/03/2009

(2) An Taisce – received on 26/08/2009

The following is a summary of planning issues raised.

- (a) Planning History: A previous application for a house on the site was refused by An Bord Pleanála.

- (b) Zoning: Site is located in an area zoned Prime Special Amenity in the Kerry County Development Plan and is an area under strong urban pressure from the town of Killarney. Applicant does not comply with the objectives of the County Development Plan as a dwelling in this sensitive area may be permitted only to an applicant who is a farm family member engaged in agriculture or horticulture. In addition, applicant's father does not own a land holding in the area, only the site.
- (c) Need to reside: Applicant has not demonstrated a need to reside in the area as her present residence is some miles away where she carries on a business as a beauty therapist.
- (d) Traffic: Applicant has not indicated if she intends to move her business to the application site. This would have implications for traffic safety on the narrow, sub-standard access roads.
- (e) Heritage and Tourism: Further development in this area, with its scenic amenities and historic importance, needs to be curtailed to protect the heritage of the area.

The following is the Planning Dept response to the issues raised in the submission.

- (a) Previous refusal by An Bord Pleanála for a dwelling house on the site is noted.
- (b) and (c) The application site is owned by the applicant's father. However, the applicant does not meet the criteria set out in the County Development Plan in order to demonstrate a need to reside in an area zoned Prime Special Amenity. Hence, the need for a Material Contravention of the County Development to be passed in order for permission to be granted in this case.
- (d) Application is for permission for a dwelling house and does not include for any commercial use on the site. Therefore assessment in relation to traffic safety must be confined to consideration of the vehicular traffic generated by a single dwelling house only.
- (e) It is considered that the design and location of the proposed dwelling house are such that it would integrate into the landscape. In addition, impact on the archaeology of the area is addressed in report on file by the County Archaeologist.

Assessment

1. Traffic: It is considered that the cul-de-sac access road serving the site is adequate in terms of width, alignment and the layout of its junction with Bohereen na Marbh to deal in safety with the additional vehicular traffic generated by the proposed dwelling house.
2. Effluent disposal: Following submissions in response to requests for further information, the Site Assessment Unit final report recommends conditions to be attached to a grant of permission.
3. Surface water disposal: To soak pit on site.
4. Residential amenity: It is considered that the design and layout of the proposed house and the existing screening along the western site boundary would ensure that the proposed house would not impact on the residential amenities of the existing house on the adjoining site to the west.
5. Visual impact: The proposed house is a split-level, single-storey design with external walls finished in native stone. It is considered that the design and layout of the house, taken in conjunction with the existing mature trees along the site boundaries and the proposed landscaping works, would integrate into the landscape and would not injure the sensitive visual amenities of the area.
6. Need for a dwelling house: The applicant does not meet the criteria set out in the County Development Plan in order to demonstrate a need to reside in an area

zoned Prime Special Amenity. However, it is noted that the site is owned by the applicant's father and has been in family ownership for generations.

7. Miscellaneous: Water contribution: EUR 1,549
Amenity levy: EUR 343

Recommendation

Grant planning permission subject to the following conditions:

FIRST SCHEDULE

Having regard to the nature, extent and location of the proposed development, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not be visually obtrusive, would not seriously injure the amenities of the area or be otherwise contrary to the proper planning and sustainable development of the area.

SECOND SCHEDULE

- (1) The development shall be carried out entirely in accordance with the plans and particulars received by the Planning Authority on 04/02/2009, 24/04/2009, 05/06/2009, 12/06/2009 and 13/07/2009 except for any alterations or modifications specified in this decision.

Reason: To regulate and control the layout of the development.

- (2) (a) The use of the proposed dwelling shall be as a primary permanent all year round private residence.
(b) The proposed dwelling house for a period of 7 years from the date of initial occupation shall be for the sole use of the applicant, (Name withheld for Data Protection purposes).
(c) Prior to the occupation of the dwelling, the occupants solicitor shall notify the planning authority of the name of the occupant, the date of occupation and confirm its proposed use as a permanent primary place of residence.
(d) The proposed dwelling shall not be used as a holiday home or second home
(e) This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

Reason: In the interest of the proper planning and sustainable development of the area

- (3) No garage or other exempted structure shall be erected within 4.5 metres of the centre of any divisional boundary or adjoining property on either side of the proposed dwelling house.

Reason: To regulate and control the layout of the development.

- (4) (a) Proposed dwelling house shall be in accordance with the design drawing received on 04/02/2009.
(b) Roof shall be covered with slates or tiles which shall be either black, dark-grey or blue-black. The colour of the ridge tile shall match the colour of the roof.
(c) All external finishes shall be neutral in colour, tone and texture. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for written agreement.
(d) Stone work to the external walls shall be constructed of natural stone which shall be sourced locally.
(e) The use of white uPVC shall not be permitted on windows, doors, fascias, soffits and guttering.

Reason: To integrate the structure into the surrounding area.

- (5) The finished floor level shall be in accordance with the Site Section Drawings received on 05/06/2009 and 13/07/2009.

Reason: To integrate the structure into the surrounding area.

- (6) The dwelling house shall be connected to the public water supply network.

Reason: In the interest of public health

- (7) The proposed development shall be provided with a proprietary wastewater treatment unit {"Envirocare P6" or equivalent} and soil polishing filter in accordance with the Environmental Protection Agency Wastewater Treatment Manual "Treatment Systems for Single Houses", as outlined in the plans and particulars received by the Planning Authority on 4th February 2009, and Further Information submissions received on 24th April 2009, 5th June 2009 and 13th July 2009.

The proprietary wastewater treatment unit shall have Irish Agrément Board certification. The proprietary wastewater treatment unit and polishing filter shall be installed, operated & maintained in accordance with Environmental Protection Agency Wastewater Treatment Manual "*Treatment Systems for Single Houses*" and the manufacturer's instructions.

- (a) The proprietary wastewater treatment unit shall be located a minimum distance of 7 metres from all dwellings, 10 metres from any watercourse, stream, well or spring, 50 metres from any lake, 3 metres from site boundary and 4 metres from road boundary and embankments.
- (b) The soil polishing filter shall be located at a minimum distance of 10 metres from all dwellings, 10 metres from any watercourse or stream, 30 metres from any well or spring, 50 metres from any lake, 3 metres from site boundary and 4 metres from road boundary and embankments.
- (c) The proprietary wastewater treatment unit shall have, at a minimum, the capacity to cater for a Population Equivalent of 6.
- (d) The soil polishing filter (gravity pipe discharge) shall have a minimum percolation trench length of 96 linear metres. The soil polishing filter shall be laid out on site in accordance with the drawing numbered "CAD file 246994AP01-A010" as received by the Planning Authority on the 13th July 2009. The ends of the percolation trenches shall be joined and vented in accordance with the requirements of the Environmental Protection Agency Wastewater Treatment Manual "Treatment Systems for Single Houses".
- (e) The invert level of the percolation trench pipework shall be approximately 600 mm below existing ground level, and shall be as shown on the drawing numbered "CAD file 246994AP01-A010" as received by the Planning Authority on the 13th July 2009.
- (f) The flow divider, drop distribution boxes and distribution boxes shall be proprietary distribution boxes {"Tuf-Tite" or equivalent}. They shall be set in a concrete base and located on site as shown on the drawing numbered "CAD file 246994AP01-A010" as received by the Planning Authority on the 13th July 2009.

Prior to the occupation of the proposed dwelling the applicant/developer shall submit a certificate from an approved person, a member of Kerry County Council's panel of approved site suitability assessors, stating that the proprietary wastewater treatment unit and soil polishing filter have been installed in accordance with –

- the terms of the planning permission;
- the Environmental Protection Agency Wastewater Treatment Manual "Treatment Systems for Single Houses".

The applicant shall undertake a maintenance or service contract for the on-going maintenance of the proprietary wastewater treatment unit with the manufacturer or such suitably qualified person in perpetuity.

A signed and approved maintenance contract/agreement shall be submitted to the Planning Authority prior to the installation of the plant.

A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of **five** years from the first occupancy of the house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed with, the planning authority within four weeks of the date of the installation.

Reason: In the interest public health and to prevent pollution.

- (8) (a) The existing roadside boundary shall be retained except for where its removal is necessary for the construction of an entrance with adequate sight lines.
- (b) Vehicular access to the site shall be located as shown on the Site Layout Map received on 12/06/2009 and shall be recessed 5 metres from the centre of existing front boundary fence.
- (c) The new wing walls shall be constructed in sod and stone or native stone. Wing walls forming the entrance shall be erected to a height of not more than 1 metre over existing road level, and shall be splayed at an angle of 45° to the line of the front fence.

Reason: In the interest of visual amenity and traffic safety

- (9) Formation of the splayed entrance shall not cause surface water or seepage water to flow onto the road surface. No water from the proposed development shall be allowed to flow onto the access road surface, but shall be collected and diverted to discharge to existing watercourse or to a soak pit within the site.

Reason: To avoid a traffic hazard and protect public property.

- (10) Any external lighting shall be properly cowled and directed away from the public roadway, and shall also not be visible from any point more than 200 metres away from the light.

Reason: In the interests of traffic safety and to control light pollution in the rural environment.

- (11) Existing mature trees along the site boundaries shall be retained. The site shall be landscaped with suitable indigenous trees, shrubs and hedges to the satisfaction of the Planning Authority in general accordance with the Landscaping Layout Map received on 24/04/2009. All landscaping and screening shall be carried out within the first growing season following occupation of the dwelling house.

Reason: In order to integrate the development into its setting and in the interests of biodiversity and the proper planning and sustainable development of the area

- (12) Prior to the commencement of development the developer shall pay a contribution of **€1,549** to Kerry County Council (Planning Authority) in respect of public water and sewerage infrastructure and facilities benefiting the development.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2010 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Council's prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

- (14) Prior to the commencement of development the developer shall pay a contribution of **€343** to Kerry County Council (Planning Authority) in respect of community infrastructure, environmental amenities and facilities benefiting the development.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2010 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Council's prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

Cllr. B. Cronin PROPOSED, in accordance with the provisions of Section 34(6)(a) of the Planning & Development Act 2000, that permission be granted to (Name & Address withheld for Data Protection purposes), for the construction of a single storey dwelling and ancillary works with envirocare sewage treatment plant at Parkavonear, Aghadoe, Killarney, Co. Kerry, in accordance with plans submitted on Planning Register No. 09/127 which development would materially contravene the Kerry County Development Plan 2009-2015

Cllr. D. Healy-Rae SECONDED this proposal.

A vote was taken which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, Connor-Scarteen, Cronin, Donovan, Ferris, Finucane, Fitzgerald, Fleming, Foley, Gleeson, Griffin, D. Healy-Rae, M. Healy-Rae, Leahy, McEllistram, Moloney, O'Donoghue, O'Shea, Purtill, Sheahan, Spring, O'Connell **(25)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. McCarthy, O'Brien **(2)**

Mayor O'Connell declared the resolution CARRIED.

(c) Material Contravention of the Kerry County Development Plan 2009-2015 and the Ballybunion Local Area Plan 2007-2013

Mr. G. O'Brien, Meetings Administrator, read the following report:-

Implementation of the Material Contravention Procedure under and in accordance with Section 34 of the Planning & Development Act, 2000 in relation to application for permission to erect a dwelling with attic accommodation as per planning reg. no 09-137. (Note: Site location map attached herewith for reference).

Name of Applicants:

Planning Reg. No.

Address of Applicant:

Agent:

Location of Proposed

Development:

Nature/Description of Proposed

Development:

Date Application Lodged

(Name withheld for Data Protection purposes)
09-137

(Address withheld for Data Protection purposes)

Complete Contract Management

Cliff Road, Ballybunion

Site location map attached.

Permission to construct a dwelling with attic accommodation.

Application lodged on 9/02/09.

Further Information lodged on 29/07/09

Material contravention procedure initiated with publication of the prescribed notice in the Irish Examiner newspaper on 21/08/2009

Decision Due Date:

15/10/09

Location:

This site is located on Cliff Rd, Ballybunion and is bounded by a 2m high wall. The proposed dwelling is within the curtilage of an existing cottage that lies to the west of the proposed dwelling footprint. The site in total is c.0.035ha in area.

Planning History:

File Number:

081980

Type:

Permission

Application Status:

Withdrawn

Applicant Name:

(Name withheld for

Data Protection purposes)

Development Description: Construct A Storey And A Half Type Dwelling And Connect To The Public Sewer

File Number:

0810

Type:

Permission

Application Status:

Withdrawn

Applicant Name:

(Name & Address

withheld for Data Protection purposes)

Development Description: Construct A Single Storey Dwelling With Attic Accommodation

File Number:

074387

Type:

Permission

Application Status:

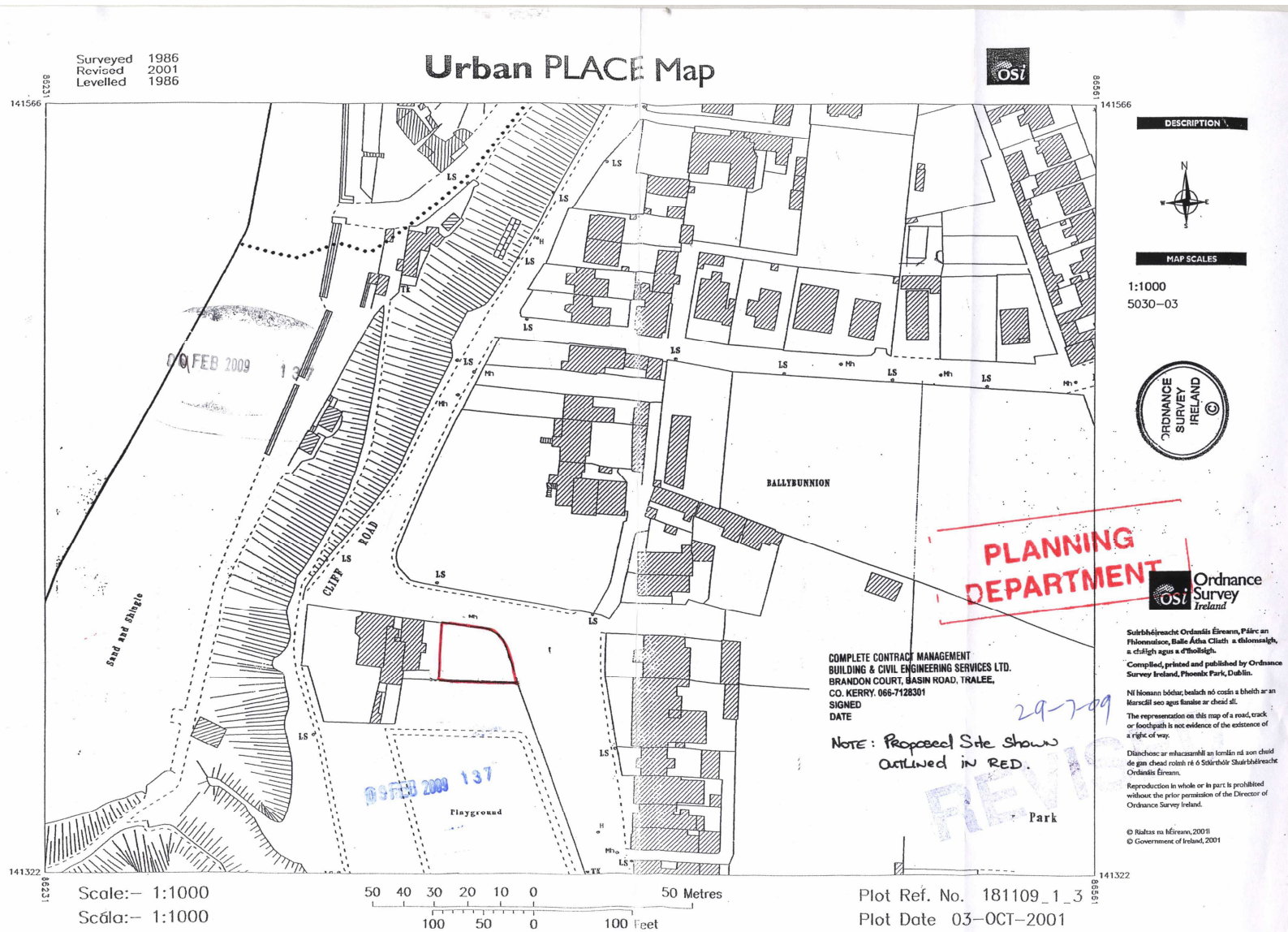
Incomplete Application

Applicant Name:

(Name & Address

withheld for Data Protection purposes)

Development Description: Construct A Single Storey Dwelling With Attic Accommodation



File Number: 061560
Type: Permission
Decision: Refused
Applicant Name: (Name withheld for Data Protection purposes)
Development Description: Build 2 No. Houses

Reports:

(i) Report from Water Services Department dated 27.02.09 confirming no objection to the proposal.

Objections/Observations:

Three submissions in relation to this application were received from (Name & Address withheld for Data Protection purposes), acting on behalf of (Name & Address withheld for Data Protection purposes), i.e.:

- (i) Initial submission within the statutory 5 week period received on 09/03/09;
- (ii) Submission received on 20/08/09 in relation to the further information element of the application;
- (iii) Submission received on 07/09/09 in relation to the implementation of the material contravention procedure.

The principal issues raised in the submissions received are summarised as follows:

- Material contravention
- Passive Amenity zoning
- Excessive density
- Loss of residential and visual amenities
- Loss of views and prospects

A further submission in relation to the implementation of the material contravention procedure was received on 16/09/09 from (Name & Address withheld for Data Protection purposes).

The issues raised in this submission relate to concerns regarding the loss of Passive Amenity Space.

Appraisal:

Consideration of this application must have regard to the relevant policy as laid out in the Ballybunion Local Area Plan 2007-2013. **This site is zoned in the Ballybunion LAP for passive amenity use.**

The site is located on Cliff Rd, Ballybunion adjacent to the public car park and playground and is presently bounded by a 2m high capped and plastered wall. The site lies within the curtilage of an existing cottage which lies to the west of the site.

Permission is sought to construct a dwelling with attic accommodation. The design of the dwelling has been altered from previous proposals to reflect the scale and design of the adjacent cottage on site. The photomontages submitted on 29-7-09 clearly indicate the proposed dwelling when viewed from various locations. Sight poles were erected on site. It is considered that the dwelling will not have a negative visual impact on the existing urban fabric of the area.

There are no designated views and prospects in the vicinity of the site.

The existing adjacent cottage is occupied by the applicant's mother and it is considered that the proposal would not seriously injure the amenities of that dwelling.

Recommendation:

It is recommended that permission be granted subject to the conditions set out hereunder, (14 no conditions).

FIRST SCHEDULE

Having regard to the infill nature of the development and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

SECOND SCHEDULE

1. The development shall be carried out entirely in accordance with the plans and particulars received by the Planning Authority on 9-2-09 and 29-7-09 except for any alterations or modifications specified in this decision.

Reason: To regulate and control the layout of the development.

2. (a) The use of the proposed dwelling shall be as a primary permanent all year round private residence.
(b) The proposed dwelling house for a period of 7 years from the date of initial occupation shall be for the sole use of (Name withheld for Data Protection purposes)
(c) Prior to the occupation of the dwelling, the applicant's solicitor shall notify the planning authority of the name of the occupant, the date of occupation and confirm its proposed use as a permanent primary place of residence.
(d) The proposed dwelling shall not be used as a holiday home or second home.
(e) This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

Reason: In the interest of the proper planning and sustainable development of the area.

3. (a) The proposed dwelling house shall be in accordance with the design drawing received on 09/02/09.
(b) The roof shall be covered with slates or tiles which shall be either black, dark-grey or blue-black. The colour of the ridge tile shall match the colour of the roof.

(c) All external finishes shall be neutral in colour, tone and texture. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for written agreement.

(d) Stone work to the external walls shall be constructed of natural stone which shall be sourced locally.

(e) The use of white uPVC shall not be permitted on windows, doors, fascias, soffits, guttering.

Reason: To integrate the structure into the surrounding area.

4. The finished floor level shall be in accordance with the Site Section Drawing received on 29-7-09.

Reason: To integrate the structure into the surrounding area.

5. The dwelling house shall be connected to the public water supply network. A meter box shall be provided to the satisfaction of the Water Authority. A dual flush system shall be installed on all toilets.

Reason: In the interest of public health.

6. Under no circumstances shall the applicant\developer cut or otherwise interfere with the public road for the purposes of connection to public services without a road opening licence.

Reason: In order to protect public property.

7. The proposed development shall be connected to the public sewer at the applicant's expense to the satisfaction of the Water Services Section of Kerry County Council.

Full details of the sewer connection (including longitudinal sections and invert levels) shall be submitted to the Planning Authority within one month of the date of this decision.

Reason: In the interest public health and to prevent pollution.

8. The existing roadside front boundary wall shall be reduced to 1.2m over road level. Vehicular access to the site shall be located as shown on the Site Layout Map received on 29-7-09

Reason: In the interest of visual amenity and traffic safety.

9. The entrance shall not cause surface water or seepage water to flow onto the road surface. No water from the proposed development shall be allowed to flow onto the public road surface, but shall be collected and diverted to discharge to existing watercourse or to a soak pit within the site.

Reason: To avoid a traffic hazard and protect public property.

10. Any external lighting shall be properly cowled and directed away from the public roadway, and shall also not be visible from any point more than 50 metres away from the light.

Reason: In the interests of traffic safety and to control light pollution in the rural environment.

11. The site shall be landscaped with suitable indigenous trees, shrubs and hedges to the satisfaction of the Planning
All landscaping and screening shall be carried out within the first growing season following occupation of the dwelling house.

Reason: In order to integrate the development into its setting and in the interests of biodiversity and the proper planning and sustainable development of the area.

12. Prior to the commencement of development the developer shall pay a contribution of **EUR 9549.00** to Kerry County Council (Planning Authority) in respect of public water and sewerage infrastructure and facilities benefiting the development.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2009 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Councils prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

13. Prior to the commencement of development the developer shall pay a contribution of **EUR 515** to Kerry County Council (Planning Authority) in respect of community infrastructure, environmental amenities and facilities benefiting the development.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2009 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Councils prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

14. Notwithstanding the exempted provisions of the Planning & Development Regulations 2001 to 2008, no further development shall occur on site without a prior grant of permission.

Reason: To integrate the structure into the surrounding area.

Supplementary Report on Item 3(c)

Implementation of the Material Contravention Procedure under and in accordance with Section 34 of the Planning & Development Act, 2000 in relation to application for **permission** to erect a dwelling with attic accommodation as per planning reg. no 09-137

Name of Applicants:

(Name withheld for Data Protection purposes)

Planning Reg. No.

09-137

Address of Applicant:

(Address withheld for Data Protection purposes)

Proposed development:

Permission to construct a dwelling house with attic accommodation

- **This supplementary report has been prepared to incorporate the receipt of a further submission received with regard to implementation of the material contravention procedure in respect of the above proposed development.**
- **The submission, made by (Name withheld for Data Protection purposes) on behalf of the (Name & Address withheld for Data Protection purposes), was received in the Planning Department after the initial report had been finalised and circulated on the 22nd inst.**
- **The submission is, however, valid as it was received in the offices of County Buildings on the 14th inst, i.e. within the statutory 4 week period from the date of publication of the material contravention prescribed newspaper notice (and inadvertently not referred to the Planning Department until the 24th inst.)**
- **The issues raised in this submission are summarised as follows:**
 - **Design not consistent with the character of the street,**
 - **Site zoned for passive amenity purposes,**
 - **Granting permission would contravene all the main objectives and principles of the Ballybunion LAP**

In summary, the issues raised mirror the issues incorporated in the previous submissions received and have been taken into consideration by the Planning Officer in preparing the recommendation as previously circulated.

Cllr. R. Beasley PROPOSED Material Contravention for planning reg. no. 09-137. He said he examined this site and has never supported reckless developments in the area. The site being considered is for (Name withheld for Data Protection purposes), the son of the owners of the property near this site. He asked elected members to support the Material Contravention.

Cllr. P. Leahy asked why this site was zoned Passive Amenity and asked if this was an error by Kerry County Council. He asked if a submission has been received from (Name withheld for Data Protection purposes). He said he has a copy of the submission from (Name withheld for Data Protection purposes) and would like to read it into the record of the minutes.

Mr. M. McMahon, Director of Planning, said there is a deadline for submissions so if this submission is not on file it cannot be read into the record of the minutes and taken into account.

Cllr. P. Leahy said serious issues were raised on the submission submitted by (Name withheld for Data Protection purposes). He asked what has changed in terms of planning since 2006 when this application was refused. The main reason for refusal then was that the site was an amenity area. He said there are serious issues regarding planning on this application and asked if they are being addressed.

Cllr. M. Healy-Rae expressed concern regarding this application and the adjoining properties. He asked if this development would be higher than the adjoining properties. The appraisal says the development will not have a negative impact on the urban area. He also sought clarity on the zoning of Passive Amenity and asked if that zoning was an error by Kerry County Council. He asked how this material contravention is now before the elected members for consideration.

Cllr. T. Ferris said she had similar questions considering this application and based on information provided has decided to support the Material Contravention for 28th September, 2009

planning reasons. With regard to the zoning she said she has viewed the site and spoken to people objecting to this development. If this site would be considered as a garden area of the land owners she said she considered that Kerry County Council had made a mistake with the zoning. She said had this been brought to the attention of the elected members this site would have been zoned residential. She said when the Planning Department does not have an objection to this development she is fairly confident that from a planning point of view the elected members would be doing the right thing in approving this Material Contravention. She said she supported the Material Contravention.

Cllr. D. Healy-Rae said this development is to be a house for someone who wants to live next to his mother. He asked if it was a mistake to zone this area as Passive Amenity.

Cllr. M. Gleeson asked if this Material Contravention is passed will it have a force of precedent on adjoining properties in terms of rezoning.

Mr. M. McMahon, Director of Planning, responded to queries from the elected members as follows:

- Submission by (Name withheld for Data Protection purposes): A submission was received on 24th September, 2009. However, the deadline date for submissions was 18th September and this is the reason why the submission could not be taken into account.
- Previous planning refusals on this site: The report circulated to elected members sets out the history of the site. The 2006 application was for two houses. This application is for one house. The design of the house is also different. The Planning Authority is now satisfied with the design of the house. Previous applications were also withdrawn. This is outlined in the history element of the report.
- The house will be higher than the adjoining properties. The Planning Authority is satisfied the house will not have a negative impact on the adjoining properties due to its design.

Following a query from Cllr. M. Healy-Rae, Mr. M. McMahon said the development will be less than 1m higher than the adjoining properties.

- History of zoning on the site: At the time of the preparation of the Ballybunion Local Area Plan this site was an open space of ground, though it was fenced. This site was never in public ownership. This zoning was considered appropriate at the time.
- Precedent: Every application must be dealt with on its merits. A Material Contravention does not change the zoning of the site. The zoning will remain Passive Amenity until the review of the Ballybunion Local Area Plan. A Material Contravention grants permission for a very specific planning application.

Cllr. N. Foley said it is also part of the County Development Plan that preference be given to family members. The applicant is a family member of the original house. The Director of Planning has indicated that the previous planning applications are of no standing whatsoever on this application. With regard to queries raised by elected members, this development, as per the Planning Report, will not have a negative impact on adjoining properties and elected members make their judgement on the basis of good planning.

Cllr. P. Leahy said it is his understanding preference was for a family member when the house was to be a permanent place of residence.

Mr. M. McMahon said the proposed condition on this Material Contravention attaches a 7 year occupancy clause on this development.

Cllr. B. Cronin said concern was also expressed that if this development proceeds it would cause visual obstruction of the amenity.

Mr. M. McMahon said the Planning Department is satisfied that there are no protected views at this location as per the report circulated.

Cllr. R. Beasley PROPOSED, in accordance with the provisions of Section 34(6)(a) of the Planning & Development Act 2000, that permission be granted to (Name & Address withheld for Data Protection purposes), for the construction of a dwelling with attic accommodation at Cliff Road, Ballybunion, Co. Kerry, in accordance with plans submitted on Planning Register No. 09/137 which development would materially contravene the Kerry County Development Plan 2009-2015 and the Ballybunion Local Area Plan 2007-2013.

Cllr. L. Purtill SECONDED this proposal.

A vote was taken which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, Connor-Scarteen, Cronin, Donovan, Ferris, Finucane, Fitzgerald, Fleming, Foley, Gleeson, Griffin, D. Healy-Rae, M. Healy-Rae, McEllistrim, Moloney, O'Donoghue, O'Shea, Purtill, Sheahan, Spring, O'Connell **(24)**

Against: Leahy **(1)**

Not Voting: None **(0)**

Absent: Cllrs. McCarthy, O'Brien **(2)**

Mayor O'Connell declared the resolution CARRIED.

09.09.28.04 Tuairisc de réir Mír 179(3) den Acht um Pleanáil agus Forbairt 2000 agus Cuid VIII de na Rialacháin Rialtais Áitiúil 2001 (Pleanáil agus Forbairt) agus Airteagail 17 go 19, de na Rialacháin um Pleanáil agus Forbairt 2006

Reports in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006

- (a) Ar mholadh ón gComhairleoir S. Mac Gearailt, cuidithe ag an gComhairleoir B. Ó Grifín, aontaíodh nóta a dhéanamh de Thuairisc an Bhainisteora de réir Mír 179(3) den Acht um Pleanáil agus Forbairt 2000 agus Cuid VIII de na Rialacháin Rialtais Áitiúil 2001 (Pleanáil agus Forbairt) agus Airteagail 17 go 19, de na Rialacháin um Pleanáil agus Forbairt 2006 maidir le Ionad Cóireála Uisce, oibreacha gaolmhara agus bóthar rochtana atá le tógáil ag Scéim Soláthair Uisce na Mine Airde Uimh. 3.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. B. Griffin, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant, associated site works and an access road for An Mhin Aird No. 3 Water Supply Scheme.

- (b) Ar mholadh ón gComhairleoir S. Mac Gearailt, cuidithe ag an gComhairleoir B. Ó Grifín, aontaíodh nóta a dhéanamh de Thuairisc an Bhainisteora de réir Mír 179(3) den Acht um Pleanáil agus Forbairt 2000 agus Cuid VIII de na Rialacháin Rialtais Áitiúil 2001 (Pleanáil agus Forbairt) agus Airteagail 17 go 19, de na Rialacháin um Pleanáil agus Forbairt 2006 maidir le Ionad Cóireála Uisce agus oibreacha gaolmhara atá le tógáil ag Scéim Soláthair Uisce Lios Cearnaigh.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. B. Griffin, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Lios Cearnaigh Water Supply Scheme.

- (c) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. P. O'Donoghue, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Breanlee Water Supply Scheme.
- (d) On the PROPOSAL of Cllr. M. O'Shea, SECONDED by Cllr. S. Fitzgerald, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Camp Water Supply Scheme.
- (e) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P. Connor-Scarteen, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Caragh Lake Water Supply Scheme.
- (f) On the PROPOSAL of Cllr. B. Griffin, SECONDED by Cllr. S. Fitzgerald, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning &

Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Castlegregory Water Supply Scheme.

- (g) On the PROPOSAL of Cllr. P.J. Donovan, SECONDED by Cllr. M. Healy-Rae, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Emlaghpeasta Water Supply Scheme.
- (h) On the PROPOSAL of Cllr. P. Connor-Scarteen, SECONDED by Cllr. M. Cahill, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Mid-Kerry Water Supply Scheme.
- (i) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Sheahan, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Mountain Stage Water Supply Scheme.
- (j) On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. B. Cronin, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of a Water Treatment Plant and associated site works for Rathmore Water Supply Scheme.
- (k) Ar mholadh ón gComhairleoir S. Mac Gearailt, cuidithe ag an gComhairleoir D. Healy-Rae, aontaíodh nóta a dhéanamh de Thuairisc an Bhainisteora de réir Mír 179(3) den Acht um Pleanáil agus Forbairt 2000 agus Cuid VIII de na Rialacháin Rialtais Áitiúil 2001 (Pleanáil agus Forbairt) agus Airteagail 17 go 19, de na Rialacháin um Pleanáil agus Forbairt 2006 maidir le 2,569m do bhóthar atá le tógaint, Bóthar Inmheánach An Daingin, ó Shráid Eoin go dtí an Timpeallán i mBaile an Mhuilinn ar an R559 (Céim 2) maraon le nasc ó Shráid na nGabhar go Sráid na Trá (Céim 3). Tá carr chlós san áireamh (120 spás) ag an Gróbh agus Clós Bus (25 spás) i bhFearann na Cille.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. D. Healy-Rae, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning

& Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the construction of 2,569m of An Daingean Inner Relief Road from John Street to the R559 Milltown Roundabout (Phase 2) including a link from Goat Street to Strand Street (Phase 3). This also includes a car park (120 spaces) at The Grove and a Coach Park (25 spaces) at Farrankilla.

- (l) On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. B. Cronin, it was agreed to note the report on the proposed development and the Manager's report thereon in accordance with Section 179(3) of the Planning & Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006 in respect of the proposed widening and realignment of the N72 National Secondary Route for a distance of 470m from Shronedarragh to Kilquane townlands and the widening of Six Mile Bridge (known locally as Barraduff Bridge), Barraduff, Killarney.

09.09.28.05 Disposal of Properties

- (a) On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. P.J. Donovan, it was agreed to approve the disposal of Low Cost Site at 46 Ard Aoibhinn, Waterville, consisting of a plot measuring 0.168 acre approximately situate in the townland of Waterville to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 14th August, 2009, pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (b) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P. O'Donoghue, it was agreed to approve the disposal of Low Cost Site at No.5, Castlequin, Caherciveen, consisting of a plot measuring 0.11 ha approximately situate in the townland of Castlequin to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 14th August, 2009, pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (c) On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. A. McEllistrim, it was agreed to approve the disposal of Affordable House No. 10 Pairc an Fhearainn, Ardfert, together with its plot of land, situate in the townland of Farranwilliam to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 25th August, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (d) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P. Connor-Scarteen, it was agreed to approve the disposal of Affordable House No. 32 Ardmoniel Heights, Killorglin, together with its plot of land, situate in the townland of Ardmoniel to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 28th August, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.

- (e) On the PROPOSAL of Cllr. J. Brassil, SECONDED by Cllr. T. Ferris, it was agreed to approve the disposal of Affordable House No. 6 Sraid Thaidgh, Ballyheigue, together with its plot of land, situate in the townland of Ballyheigue to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 7th September, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (f) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. M. Healy-Rae, it was agreed to approve the disposal of Affordable House No. 31 Ardmoniel Heights, Killorglin, together with its plot of land, situate in the townland of Ardmoniel to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 10th September, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (g) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P. O'Donoghue, it was agreed to approve the disposal of Affordable House No. 33 Ardmoniel Heights, Killorglin, together with its plot of land, situate in the townland of Ardmoniel to (Name & Address withheld for Data Protection purposes), in accordance with the terms of notice issued 16th September, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (h) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. B. Cronin, it was agreed to approve the disposal of 29 Cahereens West, Castleisland, Co. Kerry, by way of a long term lease to The Peter Bradley Foundation, An Ríocht, Cragreens, Castleisland, Co. Kerry, in accordance with the terms of notice issued 16th September, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (i) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P. O'Donoghue, it was agreed to approve the disposal of 52 An Bhainseach, Killorglin, Co. Kerry, by way of a lease for an initial period of 12 months, to An Bhainseach Residents Association, Killorglin, Co. Kerry, in accordance with the terms of notice issued 16th September, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (j) On the PROPOSAL of Cllr. L. Purtill, SECONDED by Cllr. P. Leahy, it was agreed to approve the disposal of Detached Storage/Workshop located on a site of 0.032 acres at Tarbert, to Tarbert Island Maritime Club in accordance with the terms of notice issued 14th September, 2009 pursuant to Section 183 of the Local Government Act 2001, Section 211 of the Planning & Development Act 2000 and Article 206 of the Planning and Development Regulations 2001.
- (k) On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. N. Foley, it was agreed to approve the disposal of Plot of land measuring 0.055 Hectares (0.136 Acres) situate in the townland of Glanbane, DED of Kilfelin to (Name & Address withheld for Data Protection purposes), in accordance with the terms of the Notice issued on 16th September, 2009, pursuant to Section 183 of the Local Government Act, 2001, Section 211 of the Planning & Development Act, 2000 and Article 206 of the Planning & Development Regulations, 2001.

- (l) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. M. Moloney, it was agreed to approve the disposal of Plot of land measuring 0.030 Hectares (0.074 Acres) situate in the townland of Urrohogal, DED of Currans to (Name & Address withheld for Data Protection purposes) in accordance with the terms of the Notice issued on 16th September, 2009, pursuant to Section 183 of the Local Government Act, 2001, Section 211 of the Planning & Development Act, 2000 and Article 206 of the Planning & Development Regulations, 2001.
- (m) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. J. Sheahan, it was agreed to approve the disposal of Plot of land measuring 0.398 Hectares (0.984 Acres) situate in the townland of Urrohogal, DED of Currans to (Name & Address withheld for Data Protection purposes) in accordance with the terms of the Notice issued on 16th September, 2009, pursuant to Section 183 of the Local Government Act, 2001, Section 211 of the Planning & Development Act, 2000 and Article 206 of the Planning & Development Regulations, 2001.
- (n) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. M. Moloney, it was agreed to approve the disposal of Plot of land measuring 0.371 Hectares (0.916 Acres) situate in the townland of Urrohogal, DED of Currans to (Name & Address withheld for Data Protection purposes) in accordance with the terms of the Notice issued on 16th September 2009 pursuant to Section 183 of the Local Government Act, 2001, Section 211 of the Planning & Development Act, 2000 and Article 206 of the Planning & Development Regulations, 2001.
- (o) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. M. Healy-Rae, it was agreed to approve the disposal of Plot of land measuring 0.082 Hectares (0.203 Acres) situate in the townland of Urrohogal, DED of Currans to (Name & Address withheld for Data Protection purposes) in accordance with the terms of the Notice issued on 16th September 2009 pursuant to Section 183 of the Local Government Act, 2001, Section 211 of the Planning & Development Act, 2000 and Article 206 of the Planning & Development Regulations, 2001.

Illegally Parked Caravans at Castleisland

Mayor B. O'Connell requested an update on the position regarding a number of caravans which have located in the green areas of two housing estates in Castleisland.

Cllr. B. Cronin supported this request.

Mr. J. Breen, Director of Housing and Community & Enterprise, said as elected members are aware, six caravans moved into the green areas in Cahereens and Caisleán Mór Estates. None of these families have a housing need nor are they on the roadside with a need for emergency accommodation. These people have chosen to enter into caravans. There are four caravans in Cahereens and two in Caisleán Mór. A number of these people have moved out of private rented accommodation and into a caravan while another person had been a tenant of Tralee Town Council and surrendered their house and moved into a caravan in Castleisland. There is no pressing accommodation need in this situation. He said he accepted that there is an issue between families in Tralee but remained unconvinced that these people could be safer living in a caravan as opposed to a house. Kerry County Council is trying to deal with this situation through dialogue. As soon as the caravans moved into these estates Kerry County Council immediately served notices that these persons, by virtue of moving into this area, had breached the Anti-Social Behaviour Policy adopted by Kerry County Council. The Anti-Social Behaviour Policy states that from

the time a person signs their housing application breaches of public order preclude that person from accessing Local Authority Housing for a period of time. Kerry County Council has had extensive discussions with those living in the caravans and has worked through the Traveller Liaison Officer. Extensive discussions have also been held with representatives of the Kerry Traveller Development Project. This dialogue has failed because Kerry County Council has not received a level of responsibility from these people. He stressed that there was no accommodation need in this instance and stated that Kerry County Council had served notices on all of the residents of the caravans requiring them to move on. These persons have been directed to move to empty halting site bays in Killarney. If they fail to move, Kerry County Council will arrange to move them to Killarney. This situation is unacceptable and Kerry County Council's position has been made clear to these persons.

Cllr. D. Healy-Rae said he had requested that barriers be erected going into Local Authority housing estates. It is about time that this was done.

Affordable Houses

Cllr. J. Brassil welcomed the fact that affordable houses are being availed of by people through the work of Kerry County Council. He said he is aware there are a number of other places, including Ballyheigue, where affordable houses are available should people wish to avail of them. He welcomed the reduction in prices for these units and the active advertisement of the availability of these units. He urged people to avail of this scheme. He asked if it is possible, should a person have been refused a loan elsewhere, that Kerry County Council can provide loans to people should they be suitable.

Mr. J. Breen welcomed Cllr. Brassil's comments and he said all details on the Affordable Housing Scheme are available on Kerry County Council's website and he encouraged people to consider this as an option for housing.

09.09.28.06 Date for Special Planning Meeting

On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. P. O'Donoghue, it was agreed to hold a Special Planning Meeting on Monday, 12th October, 2009, at 10.30 a.m. to consider the County Manager's report on submissions received on the Castleisland Functional Area Local Area Plan.

09.09.28.07 Tralee Relief Roads – Funding Requirements

Mr. C. O'Sullivan, Director of Roads, Transportation & Safety, referred elected members to report dated 22nd September, 2009, which had been circulated. It is an objective of the Kerry County Development Plan 2009-2015, the Tralee and Killarney Environs Local Area Plan and the Tralee Town Development Plan 2009-2015 to construct a relief road in Tralee from the proposed Tralee Eastern By-Pass at the Ballybeggan Roundabout to the north and west of the town and linking with N86 at Blennerville. Phase 1 of the Northern Link Road (the Bracker O'Regan Road) was completed in 2006. There are four other phases in providing the relief road in Tralee. Approval was received from An Bord Pleanála last week for the CPO and EIS for the Tralee Bypass Link to the N69 Listowel Road at Forge Cross which forms Phase 2B of the Northern Relief Road. The NRA had agreed that they would incorporate that scheme but funding is to be provided by Local Authority. As the EIS and CPO have been approved, Kerry County Council will serve the "Notice to Treat"

for the required lands by 2011. There are three other phases of the route to be constructed to complete the link from the N69 to the N86. The overall cost for the development is €29.2 million. Approximately 1.7km of the Western Relief Road is within the functional area of Tralee Town Council and the remainder of the route is located within the functional area of Kerry County Council. The relief road will have benefits for Tralee and will alleviate much of the traffic congestion in Tralee town centre and potentially allow for further consideration of a Substantial Transport Management Plan, on completion. The cost of completing the route appraisal was funded by the Department of Transport under the Strategic Regional and Local Roads Grant Scheme in 2007 and 2008. In recent years, national policy has focused on the development of sustainable integrated transport management, aligned with spatial planning, as outlined in the National Spatial Strategy, Regional Planning Guidelines and the National Development Plan. The Department of Transport and the NRA are currently developing draft guidelines on Spatial Planning and National Roads which will replace the existing policy document developed by the Department of the Environment, Heritage & Local Government in 1985. Given the current uncertainty in the public finances, it is most unlikely that adequate, if any, exchequer funding will be provided in the foreseeable future to progress this project. If the scheme is to progress, Kerry County Council and Tralee Town Council will have to consider substantial funding from its own resources. The only mechanism available to generate such income is through the provision of a Supplementary Development Contribution Scheme in accordance with the provisions of Section 49 of Planning and Development Act, 2000. Such a scheme was adopted by Council in March, 2007, to fund the development of the An Daingean Relief Road and associated Coach Park. The issue of funding now arises to further progress the scheme design and acquire lands to allow the scheme to be constructed. The only means of providing this funding is through the provision of a Supplementary Development Contribution Scheme.

Cllr. J. Finucane welcomed the report and said there is disappointment that funding is an ongoing issue with this development which is critical to the development of the town of Tralee and its environs. He referred to his proposal at the July Council meeting regarding the possibility of streamlining the PPP process and PROPOSED that Kerry County Council seek a deputation with the Minister regarding funding for this development.

Cllr. T. Buckley SECONDED Cllr. Finucane's proposal to seek a deputation with the Minister regarding funding for the Tralee Relief Roads.

Cllr. A. McEllistrim thanked the Director of Roads for the report to elected members and said it is of the utmost importance that Kerry County Council does everything possible to progress this development. Government funding for the development should be sought and if this is not successful the development should be progressed through the Supplementary Development Contribution Scheme. She asked if there is a suggestion of diluting the elected members powers regarding roads and that Dáil questions cannot be raised regarding roads as per a Sunday newspaper article.

Mr. C. O'Sullivan, Director of Roads and Transportation, said with regard to the proposal on a PPP for the Tralee Relief Roads it is unlikely that a link road would generate private investment. Generally, PPPs have been quite difficult to deliver and there has to be a pay back for the private investor. PPPs have only worked where toll roads are in place which would generate a return for a private investor. There is a decline in national funding and preference appears to be given to national

schemes. Arising from the report presented to elected members today he asked that Council consider a Supplementary Development Contribution Scheme to generate some income for this scheme. All sources of funding must be considered and it is suggested that a report be presented to the October Council Meeting. In response to Cllr. McEllistrim's query, with regard to the non-national roads Kerry County Council was notified that the functions for the non-national roads are being transferred from the Department of Transport to the NRA. It is understood the Minister retains allocation of funding for non-national roads and administration transfers to the NRA. The full implications going forward are not known and it is understood there will be no change to procedures.

Cllr. J. Brassil said last year the NRA said they would decide where the money would be spent for non-national secondary roads. Kerry County Council had a long debate on funding for the N69 which still is in a state of disrepair. Eventually agreement was reached with the NRA that the N69 would be funded. He said he does not see the logic of having qualified engineers in Kerry County Council giving expert analysis to the NRA and the NRA then decides where the money is spent. He requested that a letter issue to the NRA requesting that the current situation continue whereby Kerry County Council determines how annual funding for National Secondary roads in County Kerry is allocated as there is an input from Councillors regarding the roads to be upgraded and there is local knowledge regarding what roads have priority over others.

Cllr. M. Cahill supported the previous speakers on this issue and said the allocation of funds for National Secondary roads in County Kerry by the NRA could have serious implications for Kerry County Council. Kerry County Council's Area Engineers have the expertise in this area and deal with the road network on a daily basis. Elected members also have local knowledge through dealings with the public daily regarding the County Road Network.

09.09.28.08 Strategic Policy Committees Scheme

Mr. G. O'Brien, Meetings Administrator, referred elected members to report dated 14th September, 2009, regarding the Draft Revised Strategic Policy Committee Scheme for Kerry County Council which had been circulated. The Draft Revised SPC Scheme for Kerry County Council was approved at the July CPG Meeting and following this the scheme was put out for public consultation. One submission was received from the Environmental Pillar of Social Partnership relating to:

- The Environmental Pillar's representation on the
 - Transport SPC
 - Environment & Water Services Policy SPC
 - Economic Planning & Development (Archaeology & Heritage) SPC
- SPC meeting times
- The nomination of substitute representatives in the event that a nominee cannot attend a meeting.

Mr. O'Brien said it is recommended that a representative from the Environmental Pillar be included as an additional member to the Transport SPC thereby increasing the sectoral interests to five members.

With regard to meeting times it was noted that the Chair of each SPC and the relevant Director of Service agree a schedule of dates and times for meetings and every effort will be made to ensure that meetings are held at a time that will facilitate the membership of the relevant SPC.

With regard to the nomination of substitute representatives Mr. O'Brien said the membership of the SPCs is ratified by full Council and as each SPC meets only 3-4 times each year it is not possible to allow a situation where substitutes or alternative representatives can be nominated.

In response to a query from Cllr. M. Gleeson, Mr. O'Brien confirmed that there will be six nominations from the Town Councils with each Town Council nominating two representatives to the SPCs.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. M. Gleeson, it was unanimously agreed to adopt the Strategic Policy Committee Scheme for Kerry County Council as presented in accordance with Section 48 of the Local Government Act, 2001 and Departmental Guidelines.

Mr. G. O'Brien, Meetings Administrator, said letters will issue to the national pillars seeking nominations to the SPCs. Letters will also issue to elected members seeking their preferences for nominations to SPCs. He requested that elected members would return their preferences as a matter of urgency as it is proposed to ratify the membership of the SPCs at the October 2009 Council Meeting.

09.09.28.09 Higher Education Grants Scheme 2009

Mr. J.D. Flynn, Director of Corporate Services, referred elected members to report regarding the Higher Education Grants Scheme 2009. At the July Council meeting members granted approval to allow grant applications to be assessed based on the Higher Education Grants Scheme 2009 once the scheme was received and to allow circulation of the scheme to applicants on request. When this item was considered in July members were advised that the scheme would be included on the September agenda for formal approval. The 2009 Scheme has since been received from the Department of Education and Science and has been circulated to each elected member. Formal approval of the Higher Education Grants Scheme 2009 is now sought from elected members.

On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. J. Finucane, it was unanimously agreed to approve the Higher Education Grants Scheme 2009.

09.09.28.10 Summary of Proceedings at Conferences

(a) Training Seminar for Councillors on the theme "Planning & Building Energy Regulations"

It was unanimously agreed to note Cllr. B. Cronin's written report on this item which was circulated.

(b) Parnell Summer School

It was unanimously agreed to note Cllr. P. Leahy's written report on this item which was circulated.

(c) Training Seminar for Councillors - The Role of Local Government in Protecting our Water Resources

It was unanimously agreed to note Cllr. P. Connor-Scarteen's written report on this item which was circulated.

(d) Renewable Energy & Energy Conservation Seminar

It was unanimously agreed to note Cllr. A. McEllistrim's written report on this item which was circulated.

09.09.28.11 Opening of Tenders approved at the July, 2009, Council Meeting

- (a) On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. B. Cronin, it was agreed to note the opening of tenders for Supply, Installation & Commissioning of a Diffused Aeration System & Pipeline – Closing date: 12th August, 2009 at 3.00 p.m.
- (b) On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. A.J. Spring, it was agreed to note the opening of tenders for Supply & Placing of Filter Sand for Water Services – Closing date: 2nd September, 2009, at 4.00 p.m.
- (c) On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. M. Gleeson, it was agreed to note the opening of tenders for Supply of Gravels for use in Slow Sand Filters – Closing date: 2nd September, 2009, at 4.00 p.m.
- (d) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. P. Connor-Scarteen, it was agreed to note the opening of tenders for N70 Laune Bridge Strengthening Works – Closing date: 4th September, 2009, at 4.00 p.m.

Cllr. M. Cahill requested that a report be presented to the elected members when the N70 Laune Bridge strengthening works have been completed.

- (e) On the PROPOSAL of Cllr. M. Moloney, SECONDED by Cllr. M. Gleeson, it was agreed to note the opening of tenders for N22 Lawlor's Cross to Killarney Pavement Overlay - Closing date: 7th September, 2009, at 4.30 p.m.
- (f) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. J. Finucane, it was agreed to note the opening of tenders for Transportation and processing of Dry Recyclables – Closing date: 18th September, 2009, at 4.00 p.m.
- (g) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P. Connor-Scarteen, it was agreed to note the opening of tenders for N70 Pavement Overlay Glenbeigh - Closing date: 18th September, 2009, at 4.30 p.m.

09.09.28.12 Opening of Tenders

- (a) On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. P. O'Donoghue, it was agreed to approve the opening of tenders for Supply of Network Access Control or equivalent ICT security system – Closing date: 23rd September, 2009, at 2.00 p.m.
- (b) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Finucane, it was agreed to approve the opening of tenders for N69 Pavement Overlay Tralee to Listowel - Closing date: 25th September, 2009, at 4.30 p.m.
- (c) On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. M. Moloney, it was agreed to approve the opening of tenders for N71 Pavement Overlay Muckross - Closing date: 25th September, 2009, at 4.30 p.m.
- (d) On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. J. Sheahan, it was agreed to approve the opening of tenders for Standard Class B Water Tender – Closing date: Friday, 25th September, 2009, at 3.00 p.m.
- (e) On the PROPOSAL of Cllr. J. Sheahan, SECONDED by Cllr. B. Cronin, it was agreed to approve the opening of tenders for N72 Shinagh Cross Pavement Overlay – Closing date: Monday, 28th September 2009 at 4.30 p.m.

09.09.28.13 Reception of Deputations

Kilgarvan Graveyard Committee

Cllr. P. Connor-Scarteen requested that a deputation be received from the Kilgarvan Graveyard Committee regarding improvements to Kilgarvan Graveyard. On the PROPOSAL of Cllr. B. Griffin, SECONDED by Cllr. D. Healy-Rae, it was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.

Waterville Village Representative Group

Cllr. M. Healy-Rae requested that a deputation be received from the Waterville Village Representative Group regarding improvements to Waterville Village. On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. A.J. Spring, it was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.

Residents of Clonteens, Kilcummin

Cllr. D. Healy-Rae requested that a deputation be received from the Residents of Clonteens, Kilcummin, regarding the crest of the hill at Clonteens, Kilcummin. On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. M. Healy-Rae, it was agreed that this deputation would be received at the next Killarney Electoral Area Meeting.

Residents of Gearha, Farranfore

Cllr. B. Cronin requested that a deputation be received from the Residents of Gearha, Farranfore, regarding the condition of the road at Gearha, Farranfore. On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. M. Moloney, it was agreed that this deputation would be received at the next Killarney Electoral Area Meeting.

09.09.28.14 Notices of Motion

1. Government Bond

Pursuant to Notice duly given, Cllr. M. Healy-Rae PROPOSED:-

"Taking into account the crisis throughout the length and breadth of Ireland with small businesses being put to the wall by the fact of rising bad debts within their companies, that a bond should be put in place by the Government and where invoices can be proven as legitimate invoices, that the Government would then chase the debtors in these cases. The Government will then quickly find out the difficulties at present in running a small business and exactly how serious the situation is at present."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

2. Dedicated Stroke Unit in Kerry General Hospital

Pursuant to Notice duly given, Cllr. M. Gleeson PROPOSED:-

"That this Council calls on the HSE to detail the progress made towards the provision of the urgently needed Dedicated Stroke Unit in Kerry General Hospital."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. M. Gleeson said he tabled a motion on this matter previously and that he has been calling for a long time in this chamber and pre-election for the provision of a dedicated stroke unit at Kerry General Hospital. With the provision of a thrombolytic facility, if a person arrives to the hospital within three hours of a stroke they could avoid serious disability from the stroke. A thrombolytic facility is

available in Dublin hospitals. He said that in the interest of equality of treatment across the country and particularly the equality of treatment in this vital matter he had asked that this facility would be provided in Kerry General Hospital during Cllr. Cronin's membership of the HSE Forum. This facility has not been realised. He asked for the support of Council on this matter and that members of the HSE South Forum would raise this matter on his behalf, on behalf of Council and on behalf of the people of this county. It is essential that this facility is provided in this county. The provision of this facility in Cork is not sufficient.

Cllr. B. Cronin **SECONDED** this motion. He said he raised this matter at the HSE Forum and a commitment was given that the HSE would enter into negotiations with bodies involved in providing a thrombolytic facility in Kerry General Hospital. The provision of this facility has not progressed. He supported the sentiments expressed by Cllr. Gleeson and appealed to the HSE Forum representatives to raise this matter again at the HSE Forum meetings.

Cllr. M. Gleeson acknowledged that there is a facility for rehabilitation and physio in the Kerry General Hospital.

3. Report of the HSE Working Group on Rheumatology

Pursuant to Notice duly given, Cllr. T. Ferris PROPOSED:-

"That this Council demands the publication of the report of the HSE Working Group on Rheumatology immediately."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. T. Ferris said Arthritis is the single biggest cause of disability in Ireland and one in every six people in Ireland is affected by arthritis. Kerry does not have a consultant rheumatologist and only has a visiting rheumatologist on one morning per month. Ireland has only one consultant rheumatologist for every 400,000 people. The World Health Organisation recommends that there should be one consultant rheumatologist for every 80,000 people. People have been waiting for up to five years to see a consultant rheumatologist. It is costing the state far more by treating people in the later stages of arthritis rather than in the earlier stages. It would cost far less to diagnose and treat arthritis earlier. She called on the elected members to support the call for the HSE to fill the rheumatologist position in Kerry. The position has not even been advertised to date.

Cllr. M. Gleeson **SECONDED** this motion and said there is nothing more upsetting for people than to be suffering the pain of arthritis because of lack of adequate facilities.

4. Section 31 of the Planning & Development Bill 2009

Pursuant to Notice duly given, Cllr. N. Foley PROPOSED:-

"That Kerry County Council express its dissatisfaction with Section 31 of the Planning & Development Bill 2009 which suggests that when a request is made of a Local Authority to take over a housing estate, that the views of the majority of the owners will be taken into consideration and not the views of the tenants as was previously the case. This move seriously disenfranchises tenants."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. N. Foley said a lot of estates have rented accommodation. Tenants views should be taken on board when a request is being made to take an estate in charge. She called for support of elected members and that a letter would issue to the Minister on this issue.

Mr. G. O'Brien, Meetings Administrator, said Notice of Motion Numbers 5, 11 and 13 relate to Family Resource Centres. Notice of Motion Numbers 5, 8, 9, 24, 28 and 34 relate to the Rural Transport Scheme. Notice of Motion Numbers 25 and 33 are also related to these issues.

Mayor B. O'Connell said these Notices of Motion will be considered together.

Funding for Family Resource Centres & Rural Transport Scheme & An Bord Snip Nua Recommendations

5. Pursuant to Notice duly given, Cllr. M. Cahill PROPOSED:-

"That Kerry County Council immediately request the Government not to implement the recommended proposals by An Bord Snip Nua in relation to funding for family resource centres in the County and the Kerry Rural Transport Scheme as these are most vital and necessary services."

8. Pursuant to Notice duly given, Cllr. A. McEllistrim PROPOSED:-

"That Kerry County Council would ask the Minister for Transport not to cease funding for the Rural Transport Programme."

9. Pursuant to Notice duly given, Cllr. B. Cronin PROPOSED:-

"To call on this Government to immediately end their persistent attack on the elderly, vulnerable and those with disabilities by maintaining the vital Rural Transport Scheme and ending their current policy of means testing the elderly and vulnerable for Home Help and Medical Cards."

11. Pursuant to Notice duly given, Cllr. B. O'Connell PROPOSED:-

"That Kerry County Council calls on the Government to support the Family Resource Centre Programme and in particular, Family Resource Centres based in County Kerry."

13. Pursuant to Notice duly given, Cllr. P. Connor-Scarteen PROPOSED:-

"That Kerry County Council calls upon the Government not to implement the recommendation in the McCarthy Report that the Family Support Agency be closed in an effort to save the exchequer €30m as €18m is spent directly on the Family Resource Programme. South Kerry alone has five Family Resource Centres which are needed now more than ever in these difficult economic times. In resolving the National economic and fiscal crisis, the Government approach should centre on eliminating waste and bureaucracy while protecting essential services that support families and communities."

24. Pursuant to Notice duly given, Cllr. S. Fitzgerald PROPOSED:-

"That Kerry County Council call on the Minister for Transport not to axe the very successful Rural Transport Scheme."

25. Pursuant to Notice duly given, Cllr. T. Ferris PROPOSED:-

"That this Council objects to An Bord Snip Nua's recommendations to axe funding for essential services for our most vulnerable."

28. Pursuant to Notice duly given, Cllr. P. Connor-Scarteen PROPOSED:-

"The recommendation of An Bord Snip Nua to axe the Rural Transport Programme is a direct attack on rural Ireland. I therefore call upon Kerry County Council to request the Government not to implement the Board's recommendation in the interests of rural dwellers. For many people living in isolated locations, this bus service is a necessity, not a luxury."

33. Pursuant to Notice duly given, Cllr. M. Moloney PROPOSED:-

"That Kerry County Council call on the Government, prior to the Budget, to maintain their commitment to the Community and Voluntary Sectors following the publication of the McCarthy Report."

34. Pursuant to Notice duly given, Cllr. M. O'Shea PROPOSED:-

"That we the Members of Kerry County Council pass a resolution demanding that the Minister for Transport continues with the Community Rural Transport Service."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. M. Cahill said Family Resource Centres have been a great success. These centres deal with the most vulnerable and provide services such as education and training, support for those suffering from domestic violence, drug or alcohol addiction and anti-discrimination and anti-isolation initiatives. Childcare services, including pre-school and after-school care are provided which allows parents to join the work force or to access training and education opportunities to up skill them in order to find employment. Curtailment of funding for Family Resource Centres would be a negative decision impacting on family life. He said he has first hand experience of the Killorglin Resource Centre which deals with up to 600 individuals on a weekly basis. The centre deals with all types of issues and works closely with other services. Killorglin Family Resource Centre is located in Iveragh Park and is being officially opened next Friday by Minister Mary Hanafin. Funding for Family Resource Centres should be maintained and these facilities enhanced. He requested that a letter issue to Government asking that funding for Family Resource Centres be maintained.

Cllr. Cahill referred to the Kerry Rural Transport Scheme and said this scheme is in place since 2003 and has had outstanding success in the county. Usage figures for Kerry Community Transport are rising every year and in July, 2009, Kerry Community Transport transported its ½ millionth passenger in Kerry. 116,651 passenger trips were undertaken in 2008 which was just under 10% of the passengers carried nationally. A day of acknowledgement for the service was held in Castleisland recently. This scheme has changed the lives of many people, particularly those living alone and people who need assistance. The scheme has addressed isolation issues. Every effort should be made by Kerry County Council to retain this service. The Local Authority should be promoting and enhancing these schemes. It would have a massive impact on rural Ireland if funding for this scheme is cut.

Cllr. A. McEllistrim requested that a letter issue to the Minister not to cease funding for the Rural Transport Scheme as this is a valuable resource for the elderly. It gives people using this service a sense of independence and they are not dependant on neighbours or family. It also provides people with access to

services and facilities. Usage has increased from 34,000 in 2003 to over 116,500 in 2008. Over 2,000 people using the service are wheelchair users. Over 6,500 people using the service required assistance getting on and off the vehicles. These figures show the need for this service. The scheme also provides employment for 45 operators providing the service.

Cllr. B. Cronin supported the call for the continuation of the Rural Transport Scheme. This scheme is a lifeline for hundreds of people in rural Kerry. It is an excellent service and provides an important outlet particularly for the elderly living on their own in rural isolated areas. The recent event in Castleisland Community Centre was to honour the excellent service being provided and call for the continuation of the service and highlight its absolute necessity. It is vitally important that the service is continued and those using it are not targeted by way of government funding being cut. Funding must be maintained for this service. With regard to means testing of home help, Cllr. Cronin said this is a brutal attack from Government and is a terrible way to treat people with needs.

Cllr. P. Connor-Scarteen said the Government will save funds in the long term if the Family Resource Centre Programme remains in place. The overall good they do covers many areas and includes visits and dances for older people, counselling, youth exchanges, parenting programmes, advice centres, links to MABS, HSE, Legal Aid Board, Children's homework clubs and they are a focal point for volunteers in the community. The main objective of the centres is to combat disadvantage in the community and assist where possible. He said he is familiar with the Sneem, Lauragh and Killorglin services. The services provided at Family Resource Centres was outlined to the Taoiseach in Listowel recently. With regard to the Rural Transport Scheme he said this scheme is a necessity for people living in isolated locations. The need for this scheme highlights the lack of transport services in rural Ireland as well as the rural/urban divide. He urged the Council to request Government to continue this service.

Cllr. S. Fitzgerald said the benefits of the Rural Transport Scheme have been highlighted over the summer months. It will be a setback to the county if this scheme is discontinued as it is vital to the senior citizens of rural Kerry. He requested that a letter issue to the Minister responsible to ensure that funding is maintained.

Cllr. M. Moloney said the McCarthy Report is an attack on rural Ireland. If some of the proposals in this report are implemented, it will have a devastating effect on rural communities and wreak havoc on our services. Any cuts to the Rural Transport Schemes will be one of the most heartless and savage attacks; it will introduce rural isolation and cause social exclusion. Because the parishes throughout Kerry are badly served by the public transport system many elderly citizens use the Rural Transport to collect their pensions, to do their shopping, visit their doctor or attend the Day Centres. To rob them of this service would be downright criminal. She said she is fearful for the safety of the elderly because if they are confined to their homes they will revert to keeping their money at home and if access to transport to the towns to go to the banks is not maintained it could lead to attacks on the elderly in their homes.

Cllr. Moloney referred to Family Resource Centres and said at the moment they are campaigning against the recommendation in the McCarthy Report which threatens their survival. There is a newly built state of the art centre in

Ballyspillane in Killarney, which could be in danger if these cuts were to go ahead. The Family Resource Centres are campaigning for the retention and expansion of the programme. Family Resource Centres are doing vital work and unfortunately their work is more important than ever in the current times economic hardship. At a time when the banks are being bailed out surely it is not too much to expect the Government to protect and indeed expand the Family Resource Centres who are more than willing to meet the Government to discuss how they can continue to deliver their service and ensure value for money.

Cllr. Moloney expressed fear for the future of the Community Childcare Facilities, Community Services Programmes, Community Development Programmes and Partnerships. Community Employment Schemes will also suffer under the McCarthy Report. There are presently 55 CES in Kerry which provide employment for the long-term unemployed and which retrain people to re-enter the workforce. The erosion of their secondary benefits will discourage people from taking up these schemes. A lot of communities benefit from these schemes and this is most visible in the local parishes, villages and towns, where the work of the participants has greatly enhanced the areas. Attempts were already made to cut CE materials and training budgets, but thankfully because of the Supervisors and Participants standing together with their union they were able to get the cutbacks reversed. She called on Kerry County Council to support her call and to put pressure on Government to maintain their commitment to the Community and Voluntary Sectors, to maintain the level of services which exist at present and not to decimate rural Ireland. In particular she asked the Fianna Fáil Members to ask their colleagues in Government not to accept this position. She asked Deputy Healy-Rae to vote against this proposal.

Cllr. T. Fleming said he had raised this matter with the Minister recently and it is understood the funding will not be reduced. A meeting will be held with Minister Hanafin on Friday to follow up the Family Resource Centre funding issue.

6. Farm Inspections

Pursuant to Notice duly given, Cllr. S. Fitzgerald PROPOSED:-

"That Kerry County Council call on the Minister for Agriculture and the Minister for the Environment to review the huge industry of inspection that surrounds modern farming."

The following report issued:

This is a matter for resolution by the Members. However, it is worth noting that the establishment of a system for the co-ordination of farm inspections (for the purpose of the Nitrates Regulations only) is currently being dealt with at National level.

Cllr. S. Fitzgerald said auditing and reporting is essential to ensure honesty in state spending but there is an imbalance with this auditing and reporting. There is no regulation in the banks and no-one is supervising the large supermarkets dictating the price of milk. The Beef Tribunal showed no compliance with Regulations. There is no regulation of FÁS. The farmers are always being inspected and there is a voluminous amount of paper work to be completed. The Nitrates Directive also has an inspection regime. While some inspectors are practical they too are fearful of having their work audited. All these inspections are making it very difficult for farmers to keep going and complete the paperwork.

Farmers must employ staff and there is no productivity. This inspection regime is costing the country millions. This is just another layer of bureaucracy and there is a need for the approach of inspectors to be reviewed.

Cllr. D. Healy-Rae SECONDED this motion.

7. Planning Application at Kit Ahern Road, Ballybunion

Pursuant to Notice duly given, Cllr. T. Fleming PROPOSED:-

“That in the event of (name and address with Planning Department) submitting a further planning application in respect of the erection of a house at Kit Ahern Road, Ballybunion on a site which is currently zoned for car parking in the Ballybunion Local Area Plan, that the Planning Authority would commence the required procedure to facilitate the granting of this permission in material contravention of the Ballybunion Local Area Plan.”

The following report issued:

The history of this particular application is as follows:

The applicant applied in November 2008 to construct a one and a half storey style dwelling and for a connection to the public sewer in Ballybunion. On assessing the application, the Area Planner reported that the site was within the Ballybunion development area and was located in an area zoned for car-parking in the Ballybunion Local Area Plan. Hence, the application constituted a Material Contravention of the Plan.

It was the view of the Senior Planner for the area that the application should be put forward for a Material Contravention and the Director of Planning agreed to commence the relevant procedures.

The public consultation procedures were initiated in January 2009 and a report brought to the Council Meeting held on 9th March, 2009. However, at that meeting, the Motion to authorise the Material Contravention was not carried and accordingly a decision to refuse permission was issued.

Following that decision, the applicant appealed the decision of Kerry County Council to Bord Pleanála in April, 2009. On 5th August 2009, Bord Pleanála advised that this decision was also to refuse permission “as the site of the proposed development is zoned ‘car park’ in the Ballybunion Local Area Plan 2007 and the proposed development would contravene materially the zoning objective and make it more difficult to provide an extended public car-park at the location.”

As the Members are aware, in accordance with planning legislation, initiating the Material Contravention procedure is a matter for the Planning Executive.

In view of the planning history on this site, recommencing the Material Contravention procedure would not be considered appropriate. However, the zoning of the site can be reviewed within the context of drafting a new Local Area Plan for Ballybunion.

Cllr. T. Fleming expressed disappointment with the stance taken by the Planning Authority on this application. He said this application has been very positive from the start whereby the local councillors and planners originally agreed to proceed

with a Material Contravention. However this Material Contravention failed at Council. He said with a newly elected Council he called for this Material Contravention to be renewed.

Mayor O'Connell **SECONDED** this motion.

Cllr. R. Beasley said he believes there was an error made by himself and other members in not supporting this Material Contravention on the day that it was considered by Council.

Cllr. D. Healy-Rae supported this motion.

Cllr. L. Purtill said he had also made a mistake on the day this Material Contravention was considered by Council.

Mayor B. O'Connell asked if, in taking cognisance of the comments from elected members today, the Planning Authority would reconsider this Material Contravention.

Cllr. T. Fleming said the wish of the Council is to reconsider this Material Contravention and he asked if it could be presented to Council again.

Cllr. J. Brassil said on the day this Material Contravention was considered by Council, due to election issues members did not vote against it but abstained. Members should have been better informed on this application. He requested Director of Planning to reconsider this Material Contravention.

County Manager said the initiation of any Material Contravention is an Executive Function not a Reserved Function. He said it would be undesirable that a precedent would be set whereby the members would direct the executive to bring a Material Contravention to the elected members. A Material Contravention on this application was presented to the members at the March 2009 Council meeting and it was defeated. It is very difficult for the executive to bring this application to the members again without getting direction from the Council and that said it would have to be reviewed by the Planning Authority. He cautioned the members that An Bord Pleanála made their decision based on the zoning on the site. As was indicated earlier at today's meeting the fact that a permission is granted by way of a Material Contravention it does not change the zoning. If a new Material Contravention proceeds an appeal to An Bord Pleanála could see the permission rejected again. This application will be reviewed based on today's discussions.

10. Kerry Lottery

Pursuant to Notice duly given, Cllr. J. Finucane PROPOSED:-

"That Kerry County Council seek sanction for a licence to operate a "Kerry Lottery" in which monies raised would be utilised to invest in and enhance essential services."

The following report issued:

Any funding raising activity to be used by the Council must be based on specific legal authority and at present there is no legal provision in existence to allow the Council to apply for a lottery licence. So, it is not open to the Council to pursue the matter outlined in this Notice of Motion.

Cllr. J. Finucane said the Irish National Lottery was based on systems in the EU and US. The lottery system in the EU and US was initiated by regional and city government to raise funding for specific areas. There were concerns in setting up the Irish National Lottery regarding how the money would be allocated. Local Authorities should be able to initiate their own Lottery as a fundraising mechanism or a percentage of national lottery funds raised locally should be spent locally, e.g. on services like the Family Resource Centre and Rural Transport Scheme. Funds raised in Kerry should be spent in Kerry. He requested that a letter issue to the National Lottery to determine if a percentage of the funds raised could be returned for county projects.

Cllr. M. Gleeson supported this motion and said this is an excellent idea. Local Government should be able to run its own finances.

Mr. J. O'Connor, Head of Finance, said in some Local Authorities on the continent the use of lottery funding controlled by Local Authorities is quite a substantial income generator. However, as things stand in Ireland the law is not in place for such lotteries to be established. The elected Council would have to call for a change in the law. To assist the elected members he suggested that by resolution and if agreeable the members could request the Minister for Finance to expand legislation to allow Local Authorities to constitute lotteries as they locally decide. He said it is within the existing regime that National Lottery funds are assigned to local projects controlled by local communities.

On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. M. Gleeson, it was resolved to request the Minister for Finance to expand the legislation to allow Local Authorities to conduct lotteries as they locally decide.

12. Eircom Pole at Mountain Stage

Pursuant to Notice duly given, Cllr. P.J. Donovan PROPOSED:-

"That Kerry County Council request the NRA to move the Eircom pole in off the road at Mountain Stage."

The following report issued:

The relocation of this Eircom pole is a not a matter for the NRA or Kerry County Council. It is a matter for Eircom and the landowner. The Roads Department will write to Eircom and request them to relocate their infrastructure.

Cllr. P.J. Donovan said the location of this Eircom pole is highly dangerous. The wall of the house beside it has been moved back off the road. He asked that a letter issue to Eircom requesting that this pole be relocated.

Cllr. P. Connor-Scarteen SECONDED this motion.

Cllr. M. Cahill supported this motion and said he had raised this matter previously as it is exceptionally dangerous. The pole is highlighted by Kerry County Council traffic cones and stands out from the property. He questioned the accuracy of the reply and said he was informed by an Eircom employee that when the pole was being placed there it was being placed on the understanding that Kerry County Council were aware of it. Kerry County Council has tarred around the pole. Eircom consider that this pole is the responsibility of Kerry County Council. It appears it was placed there on instruction of Kerry County Council.

14. N67 from Tarbert Village to the Ferry Terminal

Pursuant to Notice duly given, Cllr. L. Purtill PROPOSED:-

“That Kerry County Council requests the NRA to carry out urgent repairs to the N67 from Tarbert Village to the Ferry Terminal as this road is a vital link for Kerry tourism and the economies of North Kerry and West Clare.”

Cllr. J. Brassil said Notice of Motion No. 16 on the agenda also relates to the N67 and he moved this motion.

16. Pursuant to Notice duly given, Cllr. J. Brassil PROPOSED:-

“That Kerry County Council would immediately write to the NRA to request funding for the N67 Island Road, Tarbert.”

The following report issued:

Kerry County Council made a submission to the NRA in 2008 for funding under the Pavement and Minor Works Improvement Scheme for an allocation of €850,000 to carry out improvement works to the N67 Tarbert Ferry Road in 2009. This was part of an overall submission for the County at a cost of €8.16 million.

The allocation received was €2.8 million. This reduction did not provide funding to carry out any improvement works on the N67. We will again include the N67 in our submission to the NRA for funding in 2010.

Cllr. L. Purtill said the N67 from Tarbert village to the ferry terminal, known locally as the “Island Road” is in an appalling state and is highly dangerous. IT needs to be prioritised for major improvement works. This is a 2 km stretch of road which carries all the ferry traffic, both tourist and commercial. It is also used by people commuting to work on a daily basis. The seaward side of the road is particularly badly potholed and rutted causing safety risks for cyclists, cars and HGVs using the road. This stretch of roadway is also used by many people from Tarbert and the surrounding areas walking for health and recreational reasons, but at the present time it is a health and safety hazard. He called on Kerry County Council to request that the NRA prioritise this 2 km stretch of the N67.

Cllr. J. Brassil said two accidents have taken place on this road in the last two years when cars came off the road which is unprotected on the seaward side. Had the tide been on these occasions there would have been fatalities. On safety issues alone there is a dire need for funding for this road. It is also required in light of the progression of the LNG Project and with the Endesa Power Project there is substantial extra traffic on that road. Taking into account levies that have been and will be paid and the importance of this national secondary route, Kerry County Council must include this road as part of the 2010 submission and highlight the urgent need of funding.

15. Ballinagar Bridge

Pursuant to Notice duly given, Cllr. R. Beasley PROPOSED:-

“How soon can we see works commencing on Ballinagar Bridge?”

The following report issued:

Tenders were received from 10 contractors for the re-construction of Ballinagar Bridge. These were assessed by our Bridge Consultant. The

Consultant's recommendation was submitted to the Department of Transport last week seeking their approval to appoint the recommended contractor. This is a Departmental requirement for contracts in excess of €500,000. On receipt of the approval, and following various insurance and Health and Safety checks, we will proceed to appoint the contractor.

Cllr. R. Beasley said it is hard to accept that after 32 months the Ballinagar Bridge has not been replaced. This situation is causing hardship for the people of the area and Kerry County Council is still not in a position to notify people as to when this work will commence. He called on the Department of Transport to immediately proceed with this project.

Cllr. J. Brassil said the Ballinagar Bridge was a major issue raised by people prior to the Local Elections. Approximately €250,000 was allocated to Kerry County Council to deal with the Dale Road. That €250,000 was reallocated towards work on the Ballinagar bridge. As the tenders have been assessed and the best bid identified why can Kerry County Council not go ahead with the project and get it underway. The insurance claim is still not settled and there is a substantial sum of money due to Kerry County Council. If the insurance settlement was added to the €250,000 from the Dale Road work on the Ballinagar Bridge would be substantially underway. People in the area have been given assurances and before the next Listowel Electoral Area meeting there will be a call on the members again on this issue. He called on Kerry County Council to spend the €250,000 on works on the Ballinagar Bridge as was agreed six months ago. He asked why the insurance claim has not been settled. The elected members in this area have been very patient under pressure on this issue.

Cllr. T. Buckley asked if work will commence on Ballinagar Bridge this year and when will the insurance claim be resolved.

Mr. C. O'Sullivan, Director of Roads, Transportation and Safety, said with regard to awarding the contract for works on the Ballinagar Bridge, as outlined in the reply to the Notice of Motion, as the project is in excess of €500,000 Department of Transport approval is required. Approval to go to tender was received in May, 2009. 10 tenders were received and processed. The consultant's report was received last Friday week and the report was sent to the Department of Transport Inspector on that date. He said he spoke with the Department of Transport this morning and the indication is approval will be received by the end of this week to proceed to appoint the recommended contractor. The insurance claim is being followed up with the risk assessors. He said he has been assured the claim is being pursued and all information is with the insurers. The claim is being actively pursued.

17. Employment Stamp

Pursuant to Notice duly given, Cllr. D. Healy-Rae PROPOSED:-

"That we the Members highlight the unfair system by the Construction Federation where they insist on the price of a full week's stamp, i.e. €54.60 per week from employers and employees even though only one day of that particular week might have been worked. This is a major stumbling block for people in these tough times when people appreciate whatever amount of work comes available to them. This stamp should be reduced to reflect the current economic climate."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. D. Healy-Rae said tabled this motion to highlight the serious difficulty employers and employees are facing. An employer and employee, when the employee works a full week, are liable to pay so much to make up a payment of €54.60 per week to the Construction Federation. If the employee works only one day of the week the same amount must be paid. This is a serious cost in the current economic climate. This payment should be payable on a daily basis. He asked for support from the elected members on this issue and that a letter would issue to the Tánaiste and the Construction Federation.

Mayor B. O'Connell SECONDED this motion.

18. Condemnation of Recreational Use of Illegal Drugs

Pursuant to Notice duly given, Cllr. B. Griffin PROPOSED:-

"That Kerry County Council strongly condemns Kerry people who use illegal drugs recreationally, for the role that these people play in providing a market for organised criminals operating from both within and outside the County and for the role that drug users play in financing the violence perpetrated by the aforementioned criminals."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. B. Griffin said he was not condemning people with serious drug addiction problems and struggling to come to terms with their problems, rather he wanted to highlight the culture that exists where people recreationally use illegal substances and the culture of lack of personal responsibility. There is a removal from the user and the consequences. The negative aspects of drug use are regularly highlighted but there is no focus on the social aspect. Particularly there is no highlighting of the connection between recreational drug use and criminality. People should be reminded that every cent spent on illegal drugs contributes to intimidation. There have been fatalities in this country because of this behaviour. Whether by denial or ignorance people do not realise they are part of the problem and are contributing to the criminal underworld. He called on elected members to support this motion and he called on the press members to highlight this in the media.

Cllr. P. Connor-Scarteen complimented Cllr. Griffin on his motion and said in difficult economic times drug use becomes more prominent. The use of heroin and crystal meth is increasing in the county's urban areas. This will result in an increase in serious crime. He said he hopes the Gardaí are doing all they can to combat drug use. Greater penalties must be imposed on people selling the drugs.

19. Detection of Water Leaks

Pursuant to Notice duly given, Cllr. M. Moloney PROPOSED:-

"Due to the fact that all public buildings such as schools are now to be metered for water charges instead of a fixed charge, that Kerry County Council would agree to assist in the detection of water leaks associated with these buildings."

The following report issued:

Over the past two years we have informed all schools on a continuous basis about their consumption figures for water so that they could address any excess consumption practices. In addition, we have issued several leakage advisory letters to individual schools where the metering system indicated likely leakages/wastage. Furthermore, we prepared a Customer Information Booklet especially for primary and secondary schools on water management and issued it to all schools in the County. This booklet gives information on what schools can do to save water and thus reduce their water charges. In summary, to-date we have provided much information and advice to schools across the county which, if taken on board, would have been of great help to them in the management of their water usage. Indeed, many schools have improved their water management practices significantly, but many more have still much to do.

While we have provided general information on water management and leakage/wastage to schools and specific consumption figures, it is not the responsibility or remit of the Council to assist with the detection of leakage/wastage in individual premises/sites and indeed, we would not have the resources to do so, in any event. We are, of course, available to advise on the general issues.

Cllr. M. Moloney said Kerry County Council is landlord of the Water Service and is providing a service which should be a good quality service. If there was a problem with electricity a person calls on the Electricity Board. Kerry County Council does not see it as its responsibility to take deal with water leaks. She called on Kerry County Council to help people to detect water leaks as it will cost a lot of money and require expertise to detect water leaks. At the least Kerry County Council should help people detect the leaks.

Cllr. M. Healy-Rae said this is an opportune time to act on this issue and Kerry County Council does help people where practical.

Mr. J. O'Connor, Head of Finance, said the owners and occupiers of schools have a responsibility to detect water leaks. Many schools have done this work and they must be commended for this work. The detection of water leaks requires the assistance of a competent plumber and working through the water supply system to the school building.

The meeting adjourned for lunch at 1.30pm.

The meeting resumed at 2.30pm.

20. Broadband Service in County Kerry

Pursuant to Notice duly given, Cllr. M. O'Shea PROPOSED:-

"That we the Members of Kerry County Council pass a resolution by demanding that Eircom extend the newly announced broadband service to all of its customers throughout the County of Kerry."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. T. Fleming said Notice of Motion No. 31 on the agenda also relates to Broadband and he moved this motion.

31. Pursuant to Notice duly given, Cllr. T. Fleming PROPOSED:-

"That the Council be updated regarding access to broadband throughout County Kerry."

The following report issued:

It is proposed to do a presentation for the Members on the current position regarding broadband throughout the County at the October Meeting of the Council.

Cllr. M. O'Shea said there are serious problems with the roll out of broadband. Many people within the three mile radius cannot pick up any part of the broadband service and there are serious errors with the whole Eircom system within areas. Many of the telephone lines that are in place at this time are a split line to peoples properties and due to this structure people cannot get the Eircom broadband service. Eircom tell people they are required only to provide a telephone service not a broadband service. Eircom tell people that if the line is not suitable they could try paying €121 for another line which may not work. He said several people have contacted him who are working from home and cannot get a basic broadband service. Broadband should be provided to every household. He requested that a letter issue to the Minister for Communications, Marine and Natural Resources seeking feed back on the broadband system, its success and what is available to improve broadband services.

Cllr. T. Fleming said Eircom's commitment to the roll out of broadband is questionable, particularly in Kerry. There are communities and business people, householders and farmers who are reliant on modern systems and to keep their business updated. He commended the work of Kerry County Council with "3" in providing the National Broadband Scheme. "3" are making great headway throughout Kerry in providing access to the broadband service. He welcomed the presentation to be made to the Council Meeting in October.

Cllr. J. Brassil said two Notices of Motion have been tabled regarding the provision of broadband and he fully supported these motions. However, in the last six months Kerry County Council adopted a County Development Plan which includes a 1km rule which prevents communication companies providing infrastructure to provide broadband services. Elected members must be realistic about the provision of broadband services given the restriction imposed by the County Development Plan. Elected members were advised by the County Manager that the 1km rule would be an impairment to the provision of broadband in the county.

Cllr. M. O'Shea said at a recent meeting Tetra said the 1km rule in the County Development Plan must be changed. The core issues for refusal of planning permission for masts should be listed on the refusal issued by Kerry County Council.

Cllr. A. McEllistrim said the 1km rule should not be removed from the County Development Plan. She asked that Planners would outline the other reasons for refusal of masts along with the 1km rule.

Cllr. T. Fleming suggested that this matter be referred to the Planning SPC for consideration.

Cllr. B. Griffin said he asked at a recent Electoral Area meeting that the Planning Department produce other reasons as to why applications for masts are being refused. The 1km was put in place to protect the people of the county.

Mayor O'Connell said when the Council was making the County Development Plan the implications of the 1km rule were outlined by the Planning Department officials and the County Manager.

21. Undocumented Irish in the USA

Pursuant to Notice duly given, Cllr. M. Gleeson PROPOSED:-

"That the Governments of Éire and the USA would enter into discussion with the purpose of devising some means of allowing the undocumented Irish to make one return journey home for family reasons, e.g. serious illness or death of an immediate relative."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. M. Gleeson said there should be a law in place to facilitate people in extreme situations. These people are not unknown in America. They are all known to some agency of state there and their illegality is not "underground". There must be some way to cater for these extreme situations and solving this issue on a humanitarian basis.

22. Kilgarvan Graveyard

Pursuant to Notice duly given, Cllr. M. Healy-Rae PROPOSED:-

"That Kerry County Council seek specific funding from the Department to provide additional graveyard space in Kilgarvan Graveyard. An awful situation has now occurred where we are literally out of space in this graveyard."

The following report issued:

The Department of Environment, Heritage and Local Government has no function in the provision or funding of burial grounds.

The number of burial spaces remaining in Kilgarvan Graveyard is limited by problems with rock. However, burials are still being accommodated and there are sufficient suitable spaces remaining for at least two years. It is intended to acquire additional burial ground space when necessary.

Cllr. M. Healy-Rae said there have been situations where graves have not been available for burials. As land prices are low now consider should be given to purchasing additional land for Kilgarvan Graveyard. Kerry County Council should also conduct some testing of the ground to determine where there is rock and make sure the graveyard caretaker is aware of these locations in order to cater for future needs.

Cllr. D. Healy-Rae SECONDED this motion and said some testing has been done on the ground in this graveyard. When land is not so expensive consideration should be given to purchasing it. He asked what will be done with regard to the remaining space in the graveyard.

Mr. O. Ring, Director of Water Services, said it is intended to try to break the rock in the graveyard and it may be possible to develop areas within the graveyard. There is not an emergency to provide land for this graveyard as there is enough space for at least two years.

Cllr. P. Connor-Scarteen said he believes it is necessary to acquire extra land for this graveyard. Even by breaking rock there will not be extra land. There is a deputation to the next Electoral Area meeting on this matter. He called on Kerry County Council to pursue additional land for the graveyard.

Mr. O. Ring, Director of Water Services, said there is enough space in the graveyard for two years. For the purpose of the burial ground it will require rock breaking. He said it is his understanding that trial holes are being done in the graveyard and that work must finish before proceeding any further. Kerry County Council is committed to providing sufficient space for a burial ground in Kilgarvan.

Cllr. D. Healy-Rae said Kerry County Council must ensure that the graveyard caretaker is advised as to where the rock is located.

Mr. O. Ring, Director of Water Services, said Kerry County Council will ensure that the graveyard caretaker is advised as to where the rock is located within Kilgarvan Graveyard.

23. Community Employment Schemes

Pursuant to Notice duly given, Cllr. M. Cahill PROPOSED:-

“That Kerry County Council immediately call on the Tánaiste & Minister for Enterprise, Trade & Employment, Mary Coughlan, TD to allocate a substantial increase in the number of new places on Community Employment Schemes in the County as this is a great opportunity to get many of the unemployed qualified tradesmen and women back to work and makes both financial and practical sense.”

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. M. Cahill said many people are employed in this county under the Rural Social Schemes of the Department of Community, Rural and Gaeltacht Affairs. By extending these schemes a lot of useful work can be carried out. The Community Employment Schemes and Rural Social Schemes have proved successful over the years and there is still priority work to be carried out. Now more than ever before there is a need for jobs to be created. The vast majority of people do want to work and it is healthy for people to get out of home and go to work. Extension of the RSS scheme is an answer at little or no cost to the exchequer. The Local Authority could make the work relevant to road works and in the area of housing. Housing Grants have stalled and through co-operation with FÁS, RSS and partnerships the emergency and necessary works that need to be carried out throughout the county could be addressed. He requested that a letter issue to the Tánaiste calling for an increase in the number of places on Community Employment Schemes.

Cllr. T. Fleming SECONDED this motion.

27. Crisis in Farming

Pursuant to Notice duly given, Cllr. B. Cronin PROPOSED:-

“To call on the Department of Agriculture, together with the Minister, Teagasc, Co-Ops and meat factories to immediately come together and formulate a plan of action for urgent assistance to address the crisis in farming. With lack of winter fodder, terrible milk prices and collapse of cattle prices, many family farms will be wiped out.”

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. B. Cronin said facing into the winter there are many family farms facing financial crisis due to the culmination of terrible milk prices. Months of bad weather have cost farmers a fortune with cattle housed in July/August and early September and with winter fodder being used and substantial costs incurred. He said he is aware of people receiving a few hundred euro in monthly milk cheques and this money is being kept to pay for extra feed stuff. People have given away cattle for little or nothing. There is a need for action to be taken to protect the future of family farms in rural Kerry. He called on the Department of Agriculture, the Minister for Agriculture, Co-Ops, Meat Factories and Teagasc to come together and assist and formulate a plan to help people to survive. National examples, such as the National Milk Rights Group who are leading the way, should be followed. There is a Joint Oireachtas Committee and top EU Officials dealing with the milk quota. Their aim is to increase the price of milk purchased from dairy farmers to 33c a litre from the current price of 21c a litre. This group are targeting the €1.2 billion EU Agricultural Fund. Their objective is to increase the income of the small family farm producing milk to match the average industrial wage of €30,000 a year. There is an urgent need for all organisations and groups involved in agriculture in Kerry to follow this leadership and lobby on this issue. He called on all elected members to support this initiative as if it is successful the knock on effect could approach this county.

Cllr. T. Buckley SECONDED this motion.

Cllr. J. Sheahan supported this motion.

29. Ballylongford Waste Water Treatment Plant

Pursuant to Notice duly given, Cllr. L. Purtill PROPOSED:-

“That Kerry County Council would prioritise the construction of Ballylongford Waste Water Treatment Plant following the recent flooding in the village resulting in raw sewage backing up onto the streets.”

The following report issued:

At the request of the Department of Environment, Heritage & Local Government, Kerry County Council is currently compiling an Assessment of Needs for water infrastructure in the County and this will be forwarded to the DoEHLG by their deadline date of 23rd October. This assessment will be used by the Department to prepare their Water Services Investment Programme 2010-2012. Ballylongford Sewerage Scheme will be considered a priority in this assessment. A draft of the Assessment of Needs will be considered by the Council at the October Monthly Meeting prior to final adoption.

Cllr. L. Purtill said the residents of Ballylongford are hugely concerned about pollution and the outdated system sewerage scheme in the village. The sewerage system is inadequate and is a health and safety hazard. Sewage overflowed onto the streets of the village recently as a result of flooding. In July 2007 Ballylongford was included on a priority list. With the LNG Development it is hoped the Ballylongford Sewerage Scheme would progress.

30. Safety Frames in Motor Cars used by Young Drivers

Pursuant to Notice duly given, Cllr. D. Healy-Rae PROPOSED:-

"That we ask the Department of Transport, who is responsible for road safety, to study the feasibility of fitting safety frames inside of motor cars used by young drivers. I believe this would save many lives as modern cars are too fragile for the powerful engines now perfected."

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. D. Healy-Rae said many attempts have been made by Road Safety organisations to reduce the number of deaths on the road and in this regard vehicles are too fragile. This proposal, to fit safety frames inside of motor cars, should be considered and studied. It should be mandatory that safety frames be fitted to the cars of young drivers. He asked for the support of the elected members and that a letter issue to the Minister to further this proposal.

Cllr. T. Fleming supported this motion.

Mayor O'Connell said accidents have been prevalent in Castleisland recently. Young drivers are driving too fast and they must slow down.

32. Payment Facility for Rate Payers

Pursuant to Notice duly given, Cllr. B. Griffin PROPOSED:-

"That Kerry County Council would establish a formal mechanism for facilitating rate payers and other business contributors who are struggling financially at present."

The following report issued:

Kerry County Council has a mechanism in place for several years for dealing with ratepayers on an individual basis who are in genuine hardship circumstances and where they submit specific documentation in support of their circumstances to our Revenue Department. We are dealing with individual ratepayers in such circumstances on a one-to-one basis in an understanding manner having regard to their particular financial position. Present evidence would indicate that ratepayers who are in genuine difficulties are availing of this opportunity and the mechanism in place is an adequate response in the present economic circumstances.

35. Coastal Erosion and Flood Risk Management Funding

Pursuant to Notice duly given, Cllrs. M. Cahill/T. Fleming PROPOSED:-

"That Kerry County Council immediately make a submission to the Office of Public Works for the inclusion of Incharee, Rossbeigh and Faha for Coastal Erosion and Flood Risk Management funding as Dr Martin Mansergh, TD who is

the Minister with responsibility for this area, recently visited the area and has indicated that the OPW would be willing to fund a "substantial portion" of the cost if Kerry County Council includes this area on its list of proposals."

The following report issued:

A submission has been made to the Office of Public Works seeking funding for the management of coastal erosion and coastal flood risk areas. The Incherea area has been included in this submission. It is not known at this stage what level of funding, if any, will be received for Coastal Protection Works.

If funding is received there will be a requirement on Kerry County Council to provide a level of matching funding. Kerry County Council is still carrying a large financial deficit from works previously carried out in the Inch area.

The submission also includes a request for coastal protection works to the R558, Tralee Fenit Road. This has been identified as our No.1 priority owing to the enormous strategic importance to industry in Kerry that this link road to Fenit Harbour provides.

Cllr. T. Fleming said there is a real urgency in this area for a long time.

Cllr. M. Cahill said Minister Mansergh visited this area last June and subsequently he received a letter from the Minister indicating that if there was a submission by Kerry County Council for works to be carried out a portion of the cost would be provided. He asked if costings for the embankment at Incherea and Faha have been prepared.

Mr. C. O'Sullivan, Director of Roads and Transportation, said detailed costings have not been prepared. Preliminary costs have been identified.

Cllr. M. Cahill said it is understandable that the Tralee/Fenit road is a priority and he asked where Incherea and Faha are on the priority list.

Mr. C. O'Sullivan, Director of Roads and Transportation, four locations were identified, however, this is not a priority list. The Tralee/Fenit road is high priority due its use for the export of cranes.

Cllr. M. Cahill said in Incherea homes have been flooded by tidal waters and a number of homes have invested over €50,000 of their own funds. These people should be given any assistance that is available to ensure their homes will not be destroyed again. They also have huge difficulty with house insurance. As a result of the breach of the sand dunes in Rossbeigh this area is under pressure. There is an urgent need for works to be carried out as the land is very low lying.

Cllr. D. Healy-Rae supported this motion. With regard to the Tralee/Fenit road, which is identified as a priority, he asked if there is any indication as to when funding will be available for the very necessary improvement to the road.

Mr. C. O'Sullivan, Director of Roads and Transportation, said there is no indication of what level of funding will be available. Kerry County Council was asked to identify priority areas and a response is awaited from the OPW regarding what funds will be made available.

36. Sign Refurbishment Contracts

Pursuant to Notice duly given, Cllrs. D. Healy-Rae/M. Healy-Rae PROPOSED:-

“To ask the County Manager in light of the current economic downturn, to keep as much work as possible for our own staff as concern has been raised regarding recent sign erecting contract tendered out. This job has always been done by Kerry County Council outdoor staff. How much was the value of this contract?”

The following report issued:

The National Roads Authority have awarded a number of sign refurbishment contracts on the National Primary and National Secondary routes throughout the Country following a tendering procedure. These sign refurbishment contracts include the maintenance, cleaning and replacement of warning and regulatory signs along each National route.

Contracts were awarded on the following routes which are either located fully or partly within County Kerry:

- **N21 – Tralee to Limerick**
- **N22 – Tralee to Cork**
- **N23 – Castleisland to Farranfore**
- **N69 – Tralee to Limerick**
- **N70 – Tralee to Kenmare**
- **N71 – Killarney to Cork**
- **N86 – Tralee to Dingle**

Two of the contracts awarded include the above routes and other routes as follows:

- 1. 2006 Contract No.5 (N21, N22, N23 & N24) issued to Rennicks Sign Manufacturing Kilbride Mulhuddart Dublin 15. Contract value €753,398
Amount of contract in County Kerry €483,000**
- 2. 2007 Contract No.3 (N27, N28, N69, N70, N71 & N86) issued to Traffic Sign Resources 11 Kilmessan Green Kilmessan County Meath. Contract value €1,186,455. Amount of contract in County Kerry €417,000**

Part of the work in these contracts involves the production and installation of road signs, this work is specialised by nature and has been contracted out by the National Roads Authority for a number of years now and any change in this policy would be a matter for the Authority.

In the preparation of our annual Roadworks Programme, which is presented to Council for approval, we are cognisant of ensuring sufficient funding to pay for our own resources, whilst also ensuring that value for money is achieved in delivering our services.

Cllr. D. Healy-Rae thanked the executive for the report and said he was asked to table this motion to make sure that every effort is made to retain as much work as possible for Kerry County Council's permanent workforce. It was highlighted to him that this work was contracted. He asked if this work was contracted in 2008 as well as 2006 and 2007. €900,000 is a sizable spend on these contracts. He asked for the support of the members for this issue and that in the future

Kerry County Council would seek to do this work with its own workforce as these workers have given loyal work to the Council over the years. The employment situation is very serious in the minds of the outdoor staff and they are very concerned that money is being paid to contractors outside the county. It also appears that when a County Council employee dies or retires that they are not being replaced. This is also a serious concern for outdoor staff.

Cllr. M. Healy-Rae supported this motion and said Kerry County Council must retain work for its own staff instead of contracting.

Mr. C. O'Sullivan, Director of Roads and Transportation, said he supported the spirit of the notice of motion and Kerry County Council restricted the Road Works Programme 2009 to keep as much work as possible within the county. The funding for the erection of signage is decided by the National Roads Authority and is outside the control of Kerry County Council. He said that Kerry County Council will endeavour to keep as much work as possible for its own staff.

37. Junctions between Milltown & Killorglin

Pursuant to Notice duly given, Cllrs. P. O'Donoghue/M. O'Shea PROPOSED:-

"To ask the Director of Transport what is the up-to-date position in obtaining funding for improvements to the extremely dangerous junction at Kennedy's Cross and other junctions between Milltown and Killorglin."

The following report issued:

A Notice of Motion was previously moved at the An Daingean Electoral Area meeting on the 29th April 2009 requesting safety improvements at Kennedy's Cross. The response given to the members was that no funding was provided by the NRA under the "2009 Accident Remedial Measures for National and Non-National Roads", for these works but the junction will be submitted for further consideration in the 2010 allocations.

Cllr. M. O'Shea commended the work being done on the Milltown/Killarney Road and thanked the executive for progressing this work. With regard to the Notice of Motion he said he had tabled several motions regarding this location. Funding has been available in the past and he welcomed improvements from that expenditure. Calls have been made in the past for a traffic calming system at this location due to the fact that it is a straight stretch of road and traffic does not adhere to the continuous white line that is there. Traffic calming is required at this location and he asked that this would be pursued. There are a lot of dangerous junctions from Wood Cross to Kennedy's Cross. Tyther's bend is accident prone and the records speak for themselves with regard to that bend. He asked for urgent attention at Tyther's bend also. He said he could not understand that the accident record history does not support the need for improvements at Wood Cross Junction as accidents are occurring there. He asked that funding for these areas would be pursued to make these roads safer for road users.

Cllr. B. Griffin said Kennedy's Cross is a very busy junction and there is a need for radical traffic calming measures to be put in place there. The continuous white line is not being adhered to and there have been serious accidents there. A review of the area should be undertaken and the overtaking element removed. He called on the Council to seek NRA funding for this area.

38. Publication of the National Carers Strategy

Pursuant to Notice duly given, Cllrs. M. Moloney/A.J. Spring PROPOSED:-

“That Kerry County Council call on the Taoiseach and Minister for Social & Family Affairs to publish the National Carers Strategy as committed to in the Social Partnership Agreement - "Towards 2016" and in the Programme for Government as a matter of principle.”

Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.

Cllr. M. Moloney said the Carers Association has sixteen centres throughout the Country, one of which is based in Tralee. This centre covers the whole of Kerry. In Kerry alone there are 5,967 carers. There are more carees than carers in the county as some carers are caring for more than one person. Carers are over-burdened providing care under very difficult conditions with a severe lack of support services being provided and the recommendations of the McCarthy Report are implement they will have even less support. There are carers in every village, parish and town and they need the support of the elected members to put pressure on the Government to ensure the Carers Strategy is published with immediate effect.

The implementation of a National Carers Strategy was a key commitment in the current Social Partnership and is something which Ireland's carers, an important Social Partner, regard as high priority. However, despite convening an inter-departmental advisory group, the Government announced in March this year that they would not be publishing the Carers Strategy due to financial restraints. By reneging on its commitment to publish the National Carers Strategy, this Government is showing a real lack of commitment to family carers.

She asked for the support of elected members to pressure the Government to publish the report without further delay and to show the many, many thousands of carers around this country that they are being recognised as an integral part of the community. Carers are, in effect, saving this country a fortune by caring for their loved one in their own homes rather than placing them in long-term care facilities which would cost a considerable amount more.

Statement from Annascaul Residents regarding Eircom Mast at Annascaul

Mayor O'Connell said as it was now 3.00 p.m. the statement from the Annascaul residents regarding the Eircom Mast at Annascaul would be read into the record of the meeting.

Mr. G. O'Brien, Meetings Administrator, read the following statement into the record of the meeting.

“Statement from Annascaul Residents presented to Kerry County Council
Introduction

To begin with, we the people of Annascaul would like to thank the individual councillors who have supported us in this past year in our campaign to right the wrong that has been imposed on our community.

We also thank the council for initially refusing planning to Eircom for this 15m mast in the heart of our village.

However, despite submissions referring to the proximity to the school, residences and protected structures, visual obtrusion, archaeological, tourism and heritage issues, KCC merely quoted the 1km ruling as the sole reason for refusing planning permission for the mast in Annascaul.

There was also no mention of the Department of the Environment's Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures 1996 which clearly states that **"only as a last resort, and if all the alternatives are unavailable or unsuitable, should free-standing masts be located in a residential area or beside schools"**.

We believe that this was detrimental to the Annascaul case when Eircom appealed to An Bord Pleanála. The same has occurred in 7 out of 8 Tetra/Eircom Exchange planning applications in the county of Kerry.

We feel we have been let down by KCC, An Bord Pleanála and the current government.

We are calling on KCC to protect the communities of this county from future unjust planning decisions by ensuring to mention all of the reasons and related legislation when refusing planning and not to merely revert to the 1km rule.

Whilst we welcome the 1km rule as a valid reason to refuse planning, it cannot be the only grounds for refusal, as this has proven to have a negative impact on the planning decisions made by An Bord Pleanála throughout this county.

An Bord Pleanála Inconsistencies

We would also like to highlight the serious and blatant inconsistencies in An Bord Pleanála's decision-making when it comes to Tetra mast applications on Eircom Exchanges.

- 8 out of 8 planning applications that were refused by Kerry County Council were overturned by An Bord Pleanála.
- 1 out of 8 planning applications that were refused by Cork County Council were overturned by An Bord Pleanála.

How can these statistics be acceptable? How can they be justified?

Who is working to protect Cork county's amenities from these unjust planning applications? How can the citizens of County Kerry not have the same privileges?

In the Cork cases, An Bord Pleanála cited "proximity to residential buildings", "proximity to protected structures", "proximity to schools and community properties" as reasons to refuse planning.

Yet the site in Annascaul is merely 30m from the nearest permanently occupied residence. The nearest occupied building is only 26m from the site, with it housing a small business (hairdressers). There are approx. 10 occupied residences and a protected structure within 50m of the site, another protected structure within 90m, another two protected structures within 420m and a school within 570m of the site. All of the village's buildings are within 800m of the site.

In the Ballycotton, Co. Cork decision [D229869], An Bord Pleanála's Inspector actually recommended granting planning permission, yet the Board themselves overruled this and refused permission on the grounds that the site was too close to residences. Yet the people of Annascaul don't appear to share the same rights.

In one decision in Kilcar, Co. Donegal [D228221], An Bord Pleanála refused permission on the grounds that they were not satisfied that alternative sites had been investigated as per the Dept. of Environment's 1996 Guidelines. The Inspector in the Annascaul decision quoted this as a reason to refuse planning but the Board themselves did not seem to think that this was an issue. To date no evidence has been produced to show that other sites were investigated before choosing this site.

Threefold themselves have stated that they target the Eircom exchanges first as a priority when choosing a site. This in itself proves that these sites are not being chosen as a "last resort" as required by the Dept. of Environment's 1996 Guidelines.

How is it that An Bord Pleanála can cite such reasons to refuse planning for a Tetra mast in the Cork cases but not even take these reasons into account when dealing with the Kerry cases?

KCC need to sort out their political differences with An Bord Pleanála for the sake of every citizen in this county.

For a more detailed comparison between the Kerry and Cork cases, please refer to Appendices I, II and III.

Planning Enforcement

Specific to the Annascaul case, we call on this council to ensure that the proper planning enforcement is carried out with regard to this application. On Tuesday 15 September, works were carried out on this site which were not described in the planning application. A 1.97m pillar and a small section of the 1800's 1.7m perimeter wall were knocked without permission in order to widen the entrance to the site to allow machinery access. It is also noted that there was no mention of this wall in any of the elevation drawings submitted with the planning application. We believe that this information was deceptively omitted in order to hide the fact that the entrance would need to be widened. There is history surrounding this wall as Eircom have in the past (c.1975) attempted to knock this wall but local pressure prevented them from doing so.

This planning infringement has been reported to the Planning Enforcement section of the KCC Planning Dept. but as of yet we have received no written response. We call on you to apply the necessary pressure on the Planning Enforcement section to force Eircom to cease works at this site immediately.

Planning Application Inaccuracies

We would also like to point out that it has been noted that townlands are being misspelt in the Tetra mast planning applications by Eircom which we believe make it very difficult to perform a web search on any of these planning applications based on the townland name. Examples of such inaccuracies in local applications include 'Ardrinnane' instead of 'Ardrinane' [Annascaul] and 'Loughter' instead of 'Lougher' [also Annascaul]. Whether or not this is being done deliberately to hide the applications, we call on the council to ensure that this sort of erroneous information is prevented in future applications and that such applications are refused.

Questionable Exemptions Granted by KCC to Eircom

We find it bizarre that KCC would grant an exemption to Eircom regarding a payment that An Bord Pleanála insisted on as one of the conditions for granting permission. KCC claim that this exemption was given on the grounds that this is a mast for the Emergency Services. Firstly, why any council would refuse a legitimate payment in such a time of crisis where they find themselves strapped for cash to provide essential works around the county, is beyond belief. Secondly, this planning application was submitted by Eircom, a profit-making public company. They are not a charitable or non-profit making organisation. Be assured that such masts will be leased to other mobile providers in the future. This is their business.

How does the council plan to re-coup this exempted payment when the mast goes from being an emergency service to a commercial entity?

We call on you to please take these issues with the utmost seriousness and do what each of you were elected to do - stand up and represent the citizens of Kerry who gave you the mandate you have today and do all in your power to remove the current planning blunder that has left communities like Annascaul in a situation where they are left to fend for themselves and humiliate themselves in order to protect their rights and protect their village.

Appendix I, II and III follow.

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Appendix I		Cork and Kerry Planning Anomalies
Location	Decision	Reasons and Considerations
Eircom Exchange, Ballincurrig, County Cork Ref: D229490	REFUSE	<p>Having regard to the guidelines relating to telecommunications antennae and support structures issued by the Department of the Environment and Local Government to planning authorities in July, 1996, the location of the proposed development in the centre of Ballincurrig village and the close proximity to residential property it is considered that the proposed development would seriously injure the amenities of the area and the residential amenity of property in the vicinity and would, therefore, be contrary to proper planning and sustainable development of the area.</p> <p>In deciding not to accept the Inspector's recommendation to grant permission, the Board was of the view that the negative impacts that would arise would not be outweighed by other considerations and concurred with the planning authority accordingly.</p>
Paddock, Drinagh, County Cork Ref: D231057	REFUSE	<p>Having regard to-</p> <p>(a) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, and</p> <p>(b) the height, the proximity to the adjoining dwellings and the location of the proposed development in a village location that is predominately residential in character, it is considered that the proposed development would be visually obtrusive and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>
Eircom Exchange, Ballydaniel, Youghal, County Cork . Ref: D229870	REFUSE	<p>Having regard to the national guidelines relating to telecommunications antennas and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996, and given the height, scale and location of the proposed development on a scenic route adjacent to a row of houses, it is considered that the proposed development, would be visually obtrusive and would seriously injure the amenities of the area in general and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>

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Location	Decision	Reasons and Considerations
Eircom Exchange, Ballybraher, Ballycotton, County Cork. Ref: D229869	REFUSE	Having regard to the location of the site in close proximity to existing residential property, it is considered that the proposed development would seriously injure the residential amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area. In deciding not to accept the Inspector's recommendation to grant permission, the Board could not overlook the very close proximity of the proposed development to residential property.
Scarteen Lower, Newmarket, County Cork. Ref: D229791	REFUSE	The proposed mast and aerials, to a height of 25 metres, would be located on a visually sensitive part of a gateway to Newmarket, close to open space and a protected structure (Christchurch). Notwithstanding the industrial zoning of the site, it is considered that, having regard to the layout of the town and the visually prominent site location, the proposed development would not be consistent with the locational criteria set out in the guidelines relating to Telecommunications Antennae and Support Structures issued by the Department of the Environment and Local Government in July, 1996 and would seriously injure the amenities of this part of Newmarket. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
Eircom Exchange, Dromgarvan, Adrigole, County Cork. Ref: D229597	REFUSE	Having regard to the Guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to Planning Authorities in July, 1996 and to the location of the proposed development in the village of Adrigole and in an area designated as scenic landscape in the current Cork County Development Plan and its situation alongside Scenic Route A129 and its proximity to dwellinghouses, it is considered that the proposed development would seriously injure the visual and scenic amenities of the area and the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the policies in the development plan and to the proper planning and sustainable development of the area. In deciding not to accept the Inspector's recommendation to grant permission, the Board concurred with the planning authority that the applicant had not shown that the location of the structure, in such a sensitive location on an important tourist route and in close proximity to a number of dwellinghouses, was the optimum solution to the applicants requirements in terms of the proper planning and sustainable development of the area.

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Location	Decision	Reasons and Considerations
<p>Eircom Exchange, Lislevane, County Cork.</p> <p>Ref: D228344</p>	<p>Grant</p>	<p>Having regard to:</p> <p>(a) The strategic national importance of the National Digital Radio Service,</p> <p>(b) the guidelines relating to Telecommunications Antennae and Support Structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,</p> <p>(c) the policy and objectives of the Cork County Development Plan 2003 relating to telecommunications antennae and support structures, and</p> <p>(d) the characteristics of the site, general topography and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.</p>
<p>Eircom Exchange, Abbeyfeale Road, Brosna West, County Kerry.</p> <p>Ref: D228439</p>	<p>GRANT</p>	<p>Having regard to:-</p> <p>(a) the national strategy regarding the improvement of mobile communications services,</p> <p>(b) the guidelines relating to telecommunications antennae and support structures which was issued by the Department of the Environment and Local Government to planning authorities in July, 1996,</p> <p>(c) the nature of the landscape at the location of the site and the fact that the site is not in an Area of Special Amenity in the current development plan for the area, and</p> <p>(d) the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.</p> <p>The Board noted that the planning authority had decided to refuse permission because it was considered that the proposed development would constitute a material contravention of the development plan. However, having regard to the guidelines relation to Telecommunications Antennae and Support Structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, the Board considered that, by virtue of section 37(2)(b)(ii) of the Planning and Development Act, 2000, it was not constrained in granting permission for the proposed development.</p>

Location	Decision	Reasons and Considerations
Eircom Exchange, Ardrinnane, Anascaul, County Kerry. Ref: D229823	GRANT	<p>Having regard to its location within the village and the height of the proposed development within an existing utility site, together with the pattern of development in the vicinity, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would, therefore, be in accordance with the proper planning and sustainable development of the area.</p> <p>In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the location of the proposed development within the village, the surrounding pattern of development, and the height of the proposed mast.</p>
Eircom Exchange, Toormore, Anablaha, County Kerry. Ref: D227829	GRANT	<p>Having regard to:-</p> <ul style="list-style-type: none"> (a) the strategic national importance of the National Digital Radio Service, (b) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, (c) the general topography and landscape features in the vicinity of the site, (d) the location of the proposed development on a site which does not come within the scope of specific restrictions with regard to development in scenic areas as set out in the current Development Plan for the area, and (e) the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not depreciate the value of or seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area. The Board noted that the planning authority had decided to refuse permission in part because it was considered that the proposed development would constitute a material contravention of the Development Plan. However, the Board considered that the development is of strategic and national importance, forming part of the National Digital Radio Service for emergency services (Garda, Ambulance and Fire). Having regard to the provisions of Section 37(2)(b)(i) of the Planning and Development Act 2000, the Board was not constrained in granting planning permission for the proposed development.

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Location	Decision	Reasons and Considerations
Eircom Exchange, Cools, Headford, Killarney, County Kerry. Ref: D228598	GRANT	<p>Having regard to:-</p> <p>(a) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,</p> <p>(b) the need for the mast to meet the requirements of the emergency services,</p> <p>(c) the location of the proposed development on a site which does not come within the scope of specific restrictions with regard to development in scenic areas as set out in the current development plan for the area,</p> <p>(d) the general topography and tree cover in the vicinity of the site,</p> <p>(e) the existing pattern of development in the vicinity, and</p> <p>(f) the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area. The Board noted that the planning authority had decided to refuse permission because it was considered that the proposed development would constitute a material contravention of the development plan. However, having regard to the provision of section 37(2)(b)(i) of the Planning and Development Act, 2000 and the strategic importance of the proposed development, the Board considered that permission should be granted for the development.</p>
Eircom Exchange, Carrig, Ballydavid, County Kerry. Ref: D228250	GRANT	<p>Having regard to:-</p> <p>(a) the strategic national importance of the National Digital Radio Service,</p> <p>(b) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,</p> <p>(c) the location of the development in an existing telecom compound,</p> <p>(d) the existing development on the site and in the vicinity, and</p> <p>(e) the general topography and landscape features in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of amenity, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area. The Board</p>

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Location	Decision	Reasons and Considerations
		noted that the planning authority had decided to refuse permission in part because it was considered that the proposed development would constitute a contravention of the Development Plan. However, the Board considered that the development is of strategic and national importance, forming part of the National Digital Radio Service for emergency services (Garda, Ambulance and Fire Brigade).
Retention of a 35 metre high telecommunications mast at Knockanore, Urlee, Lisselton, County Kerry on foot of permission granted on the 22nd day of July, 1999 under planning register (reference number 983137.) Ref: D218403	GRANT	Having regard to: (a) the national strategy regarding the improvement of mobile communications services, (b) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, (c) the general topography of the area and the separation distance from residential buildings in the area, and (d) the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area. The Board noted that the planning authority had decided to refuse permission because it was considered that the proposed development would constitute a material contravention of the Development Plan. However, having regard to the guidelines relating to Telecommunications Antennae and Support Structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, the Board considered that, by virtue of Section 37(2)(b)(iii) of the Planning and Development Act, 2000, it was not constrained in granting permission for the proposed development.
Eircom Exchange, Lyranes Lower, Glencar, County Kerry . Ref: D227830	GRANT	Having regard to:- (a) the strategic national importance of the National Digital Radio Service, (b) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, (c) the general topography and landscape features in the vicinity of the site,

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Location	Decision	Reasons and Considerations
		<p>(d) the relatively secluded location of the site, notwithstanding its location in an area designated as an area of Rural Secondary Special Amenity as designated in the current Development Plan for the area, and</p> <p>(e) the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of amenity, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area. The Board noted that the planning authority had decided to refuse permission in part because it was considered that the proposed development would constitute a material contravention of the Development Plan. However, the Board considered that the development is of strategic and national importance, forming part of the National Digital Radio Service for emergency services (Garda, Ambulance and Fire). Having regard to the provisions of Section 37(2)(b)(i) of the Planning and Development Act 2000, the Board was not constrained in granting planning permission for the proposed development.</p>

Appendix II: Contradictions

Telecommunications Antennae and Support Structures Guidelines for Planning Authorities	Contradictions
<p>Section 1.3 Aim ‘...general guidance on planning issues so that the environmental impact is minimised and a <u>consistent approach is adopted by the various planning authorities</u> in the preparation of their development plans and in the operation of development control’</p>	<p>Eircom have applied (on behalf of Tetra Ireland) for planning permission in several Eircom Exchanges in towns and villages around Ireland (See Appendix II). The pattern emerging between Cork and Kerry is as follows: Cork: 7 out of 8 applications Refused Kerry: 8 out of 8 applications Granted</p>
<p>Section 1.3 Aim ‘...environmental impact is minimised and a consistent approach is adopted by the various planning authorities in the preparation of their development plans and in the operation of development control. .’</p>	<p>Kerry County Council have stated in the County Development Plan that masts are not to be placed in residential areas, near schools or hospitals (see below for extract). The Kerry County Development Plan has been contravened by granting permission for this mast in the centre of the Annascaul village. In Cork the masts have been refused on several applications quoting the Telecommunication Guidelines citing the positioning in the centre of villages as a reason to refuse planning (see below for extract from Cork County Development Plan).</p>
<p>Section 4.3 Visual Impact ‘Proximity to listed buildings, archaeological sites and other monuments should be avoided.’</p>	<p>There are 4 listed buildings in the village: The Church, Brackluin House, The South Pole Inn, The Old Bridge all within 420 metres of proposed mast. There are two monuments: Tom Crean standing directly across from Mast site, Jerome Connor monument standing on the Old Bridge (90m away).</p>
<p>Section 4.3 Visual Impact ‘In upland/mountainous areas hilltops will be favoured by operators as offering the best location from the point of view of radio coverage. Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. ‘</p>	<p>Annascaul is located in a valley surrounded by hilltops. The proposal is a free-standing mast in the centre of Annascaul village close to a primary school 114 pupils, residential houses, 2 defibrillators located in the Health Clinic and shop in the village. Tetra Ireland c/o of Threefold Ltd. did not provide in their response to Questions from Annascaul Community evidence of alternative sites</p>

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Telecommunications Antennae and Support Structures Guidelines for Planning Authorities	Contradictions
Cork County Development Plan provides that:- page 114	Kerry County Development Plan Section 12.16.11 provides that:
<p>INF 4-6 Telecommunications Infrastructure It is an objective generally to support the provision of new and innovative telecommunications infrastructure, subject to normal proper planning considerations.</p> <p>INF 4-7 Impacts on Landscape It is an objective generally to protect areas of recognised landscape importance from construction of large scale visually intrusive telecommunications infrastructure. In such circumstances it is an objective to seek alternative siting.</p>	<p>“Telecommunications masts shall not be located within 1km of residential properties, schools, hospitals or any structure where there is ‘human’ occupancy for residential or daily work purposes.”</p>

Appendix III: Reasons for Refusal

Planning Decision Number	Location	DoE Guidelines 1996	Proximity to Residences	Proximity to School	Proximity to Open Space	Proximity to Protected Structure	Contrary to County Development Plan	Visually Obtrusive / Seriously Injure Amenities	Contrary to Proper Planning and Sustainable Development
D231057	Drinagh, Cork	YES	YES					YES	YES
D229870	Youghal, Cork	YES	YES					YES	YES
D229869	Ballycotton, Cork		YES					YES	YES
D229791	Newmarket, Cork	YES			YES	YES		YES	YES
D229597	Ardrigole, Cork	YES	YES					YES	YES
D229588	Dungourney, Cork	YES	YES					YES	YES
D229490	Ballincurragh, Cork	YES	YES					YES	YES
D229361	Hollyford, Wexford	YES	YES					YES	YES
D228221	Kilcar, Donegal	YES	YES	YES			YES	YES	YES
D229553	Ballyhahill, Limerick	YES	YES					YES	YES

Cllr. M. Healy-Rae thanked the Mayor for allowing the statement to be read into the record of the Minutes.

09.09.28.15 Correspondence – Conferences and Seminars

- (a) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. M. Cahill, it was agreed to authorise the attendance of Mayor. B. O'Connell at the Irish Association of Suicidology 13th Annual Conference to be held in Adare, Co. Limerick on 1st October, 2009.
- (b) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. M. Healy-Rae, it was agreed to authorise the attendance of Mayor. B. O'Connell the Southern & Eastern Regional Assembly 10th Annual Conference to be held in Trim, Co. Meath on 2nd October, 2009.
- (c) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. J. Sheahan, it was agreed to authorise the attendance of Cllrs. P. O'Donoghue, J. Brassil and P. Leahy at the Kerry Life Education Getting a Grip Conference 2009 "Reducing Drug and Alcohol Related Harm" to be held in Killarney, Co. Kerry from 8th - 9th October, 2009.

Cllr. P. O'Donoghue was nominated to report to Council on this conference.

- (d) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. S. Fitzgerald, it was agreed to authorise the attendance of Cllrs. A. McEllistrim, B. O'Connell and M. Cahill at the Ceiliúradh an Bhlascaoid 2009/The Blascaod Commemoration 2009 to be held in Dún Chaoin, Co. Chiarraí from 8th - 11th October, 2009.

Cllr. A. McEllistrim was nominated to report to Council on this conference.

- (e) On the PROPOSAL of Cllr. L. Purtill, SECONDED by Cllr. T. Buckley, it was agreed to authorise the attendance of Cllrs. A. McEllistrim, B. Cronin, J. Sheahan, J. Brassil, R. Beasley and B. O'Connell at the Douglas Hyde Conference 2009 to be held in Ballaghaderreen, Co. Roscommon from 16th - 18th October, 2009.

Cllr. J. Sheahan was nominated to report to Council on this conference.

- (f) On the PROPOSAL of Cllr. P. Leahy, SECONDED by Cllr. A. McEllistrim, it was agreed to authorise the attendance of Cllrs. T. Ferris and B. O'Connell at the Councillor Co-operation North and South - The Challenges Conference to be held in Co. Louth from 9th - 10th October, 2009.

Cllr. T. Ferris was nominated to report to Council on this conference.

- (g) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. A. McEllistrim, it was agreed to approve the attendance of Cllrs. P.J. Donovan, J. Finucane, B. Griffin, M. Moloney, A.J. Spring and P. Connor-Scarteen at the Induction Training Programme for Newly Elected Members to be held in Cork on 20th October, 2009.

- (h) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. M. Cahill, it was agreed to approve the attendance of Cllr. N. Foley at the Parnell Summer School held in Rathdrum, Co. Wicklow from 12th - 17th August, 2007.

- (i) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. M. Cahill, it was agreed to approve the attendance of Cllr. N. Foley at the LAMA Annual Winter Conference held in Carlow from 9th - 10th November, 2007.

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- (j) On the PROPOSAL of Cllr. J. Sheahan, SECONDED by Cllr. A. McEllistrim, it was agreed to approve the attendance of Mayor B. O'Connell at the Benedict Kiely Literary Weekend 2009 held in Omagh from 10th - 14th September, 2009.
- (k) On the PROPOSAL of Cllr. J. Sheahan, SECONDED by Cllr. P. Leahy, it was agreed to approve the attendance of Mayor B. O'Connell at the conference "Delivering Housing Solutions for a New Era" held in Athlone, Co. Westmeath from 15th - 17th September, 2009.
- (l) On the PROPOSAL of Cllr. P. Leahy, SECONDED by Cllr. T. Buckley, it was agreed to approve the attendance of Mayor B. O'Connell at the Governance Training Seminar for Elected Members held in Clifden, Co. Galway from 18th - 20th September, 2009.
- (m) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. D. Healy-Rae, it was agreed to approve the attendance of Mayor B. O'Connell at the Annual London Kerry Association Dinner to be held in London on 23rd October, 2009.

09.09.28.16 Correspondence General

It was agreed to note the following items of correspondence which were circulated.

1.	Letter dated 15 th July, 2009, from Mr. John O'Donoghue, Ceann Comhairle, regarding funding for the Tralee/Fenit road.
2.	Letter dated 15 th July, 2009, from Senator Paul Coghlan regarding funding for the Tralee/Fenit road.
3.	Letter dated 28 th July, 2009, from Deputy Jackie Healy-Rae regarding the closure of REPS 4.
4.	Letter dated 28 th July, 2009, from Deputy Tom Sheahan regarding closure of REPS 4.
5.	Letter dated 29 th July, 2009, from the Department of Social and Family Affairs regarding the payment of family benefits to persons working in Ireland whose children are living in another EU Member State.
6.	Letter dated 30 th July, 2009, from the North Cork PCCC Directorate of the HSE regarding centralisation of HSE Schemes.
7.	Letter dated 30 th July, 2009, from Senator Mark Daly regarding the closure of REPS 4.
8.	Letter dated 4 th August, 2009, from the Road Safety Authority regarding introduction of a credit card style driver's licence.
9.	Letter dated 5 th August, 2009, from Kerry Community Transport Ltd. regarding the future of the Rural Transport Programme in Ireland.
10.	Letter dated 12 th August, 2009, from Deputy Martin Ferris regarding the closure of REPS 4.
11.	Letter dated 17 th August, 2009, from the Minister for Agriculture, Fisheries & Food regarding the closure of REPS 4.
12.	Letter dated 19 th August, 2009, from Senator Ned O'Sullivan regarding the closure of REPS 4.
13.	Letter dated 19 th August, 2009, from the Department of the Environment, Heritage & Local Government regarding European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2009 (SI No. 296 of 2009).
14.	Letter dated August, 2009, from Trócaire regarding retention of Ireland's commitment to the world's poor.

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15.	Letter dated 28 th August, 2009, from the Minister for Education & Science regarding teaching posts at Douglas, Curraheen, Cromane and Cullina National Schools.
16.	Letter dated 1 st September, 2009, from the Minister for the Environment, Heritage & Local Government regarding the Planning & Development Bill 2009.
17.	Letter dated 19 th August, 2009, Senator Paul Coghlan regarding the removal of the REPS Scheme.
18.	Letter dated 1 st September, 2009, from Deputy Jackie Healy-Rae regarding the removal of the REPS Scheme.
19.	Letter dated 4 th September, 2009, from the Minister for Health & Children regarding dental services for medical card patients.
20.	Letter dated 4 th September, 2009, from the Minister for Justice, Equality & Law Reform regarding possession of knives in public places.
21.	Letter dated 12 th September, 2009, from Deputy Jackie Healy-Rae regarding the proposal of the leasing scheme for vacant properties.
22.	Letter dated 14 th September, 2009, from the Irish Dental Association regarding the Dental Treatment Services Scheme (Medical Card Scheme).
23.	Letter dated 14 th September, 2009, from the Department of Social and Family Affairs regarding the Social Welfare Christmas Bonus.
24.	Letter dated 15 th September, 2009, from the Department of Finance regarding pre-Budget Submission on behalf of Kerry County Council.
25.	Letter dated 21 st July, 2009, from Limerick County Council calling on the Government to take the necessary steps to have the Christmas bonus reintroduced for people in receipt of Old Age Pensions.
26.	Letter dated 22 nd July, 2009, from Clare County Council calling on the HSE's Medical Card Section to take into account the statutory pension levy deduction imposed on public sector workers when assessing medical card applications.

Votes of Sympathy

The following Votes of Sympathy were noted from the Vote of Sympathy book.

- (a) Vote of Sympathy to be expressed to the Family of the late James O'Shea, (Address withheld for Data Protection purposes).
- (b) Vote of Sympathy to be expressed to the Family of the late Mr. Jim Fitzgerald.
- (c) Vote of Sympathy to be expressed to the Family of the late Mary O'Sullivan, (Address withheld for Data Protection purposes).
- (d) Vote of Sympathy to be expressed to the Family of the late Dan Joe Keefe, (Address withheld for Data Protection purposes).
- (e) Vote of Sympathy to be expressed to the Family of the late Simon Kelly, (Address withheld for Data Protection purposes).
- (f) Vote of Sympathy to be expressed to the Family of the late Paudie Buckley, (Address withheld for Data Protection purposes).
- (g) Vote of Sympathy to be expressed to the Family of the late Mikey O'Donnell, (Address withheld for Data Protection purposes).
- (h) Vote of Sympathy to be expressed to the Family of the late Nora Mai Corcoran, (Address withheld for Data Protection purposes).
- (i) Vote of Sympathy to be expressed to Cllr. M. Moloney on the death of her mother, Mrs. Anne Riordan, (Address withheld for Data Protection purposes).
- (j) Vote of Sympathy to be expressed to the Family of the late Nurse Theresa Murphy, (Address withheld for Data Protection purposes).

09.09.28.17 Any Other Business

Reception of US Legislators

Cllr. M. Healy-Rae complimented the Mayor on his recent attendance at a Reception in Dublin for US Legislators from Chicago. Cllr. Healy-Rae said he was in Chicago as Mayor of Kerry and had made contacts and invited them to Ireland. Forty representatives visited Ireland for 12 days as a result of just one person visiting the US. This is the type of business Kerry should be attracting and the Mayor and members of the executive should travel whenever possible to sell the county abroad.

Mayor O'Connell complimented Cllr. M. Healy-Rae on his contacts made in Chicago which resulted in this visit. The visiting delegation made it clear that it was because of the meeting with Cllr. Healy-Rae that they attended.

Panels for Temporary Staff

Cllr. D. Healy-Rae referred to panels for temporary staff and said these people have no work this year. He said in relation to outdoor staff, drivers or indoor staff, he would ask management to allow the panels to remain in place.

Mr. J.D. Flynn, Director of Corporate Services, said there is a Union Agreement in place regarding the panels for temporary staff.

Local Contractors

Cllr. D. Healy-Rae said local contractors, builders and plant hire firms feel they are denied a chance to tender for work in County Kerry because there is a stipulation in the contract that if their company income is not over a certain amount of money, they are not allowed to tender for work. He asked that this matter would be reviewed.

Mayor B. O'Connell requested Cllr. Healy-Rae to table a Notice of Motion regarding this issue.

The meeting concluded at 3.40 p.m.

Gerard O'Brien
Meetings Administrator

Mayor of Kerry