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**MINUTES OF THE SPECIAL PLANNING MEETING OF KERRY COUNTY
COUNCIL HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE,
TRALEE ON MONDAY 26th JANUARY 2009.**

**MIONTUAIRISCÍ NA CRUINNITHE SPEISIALTA PLEANÁLA DE
COMHAIRLE CONTAE CHIARRAÍ A THIONÓLADH I SEOMRA NA
COMHAIRLE, ÁRAS AN CHONTAE, TRÁ LÍ, AR AN LUAN 26 EANAIR 2009**

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

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

ABSENT

Councillor/Comhairleoir

S. Fitzgerald

IN ATTENDANCE/I LÁTHAIR

Mr. T. Curran, Co. Manager	Mr. J.D. Flynn, Dir of Corp. Services
Mr. M. McMahon, Dir of Planning	Mr. J. Breen, Dir. Of Housing
Ms. A. Haugh, Dir. Of Environment	Mr. C. O'Sullivan, Dir. Of Roads
Mr. T. Sheehy, SE, Planning	Mr. P. Stack, SE Planning
Mr. G. O'Brien, A/SEO Corp. Affairs	Mr. D. Murphy, SEE Planning
Ms. A. Mooney, Exec. Planner	Ms. A. Moriarty, Tech. Planning
Mr. P. Corkery, Press & Comm. Off.	Ms. B. Reidy, S.S.O. Corp. Affairs
Ms. M. Galvin, C.O. Corporate Affairs	

The meeting commenced at 10.55 a.m.

The Mayor Cllr. T. Fleming took the Chair.

Vote of Congratulations

Cllr. M. Cahill extended a vote of congratulations to Darren O'Sullivan on being nominated Captain of the Kerry Senior Football Team for 2009. This is a great

honour for himself, his club, family and friends. He also congratulated Donnacha Walsh from (Address withheld for data protection purposes) who is Vice Captain and he wished the Kerry Team the best of luck for 2009.

Cllr. B. O'Connell congratulated St. Mary's Under 18 Girls Basketball Team from Castleisland on winning the National Cup that weekend. He also congratulated the Castleisland Men's Senior Team who were defeated in their final.

Cllr. P. Leahy congratulated Listowel Emmets on winning the North Kerry Senior Football Championship final.

Approval to the Opening of Tenders

Mr. G. O'Brien informed the meeting that approval was required for the opening of tenders for Water Quality Testing and he advised that the closing date for receipt of these tenders was 4.00 p.m. Friday 30th January, 2009.

On the PROPOSAL of Cllr. T. Fitzgerald, SECONDED by Cllr. N. Foley it was agreed to authorise the opening of tenders for Water Quality Testing.

Cllr. B. MacGearailt asked how long it takes to get a water sample tested.

Mr. G. O'Brien advised Cllr. MacGearailt that a reply would be provided for him later in the meeting.

Members Duty under Ethics Legislation

The Mayor read the following into the record of the meeting advising members of their duty under Ethics Legislation.

"I wish to remind members of their requirements under Part 15 (Ethics Framework) of the Local Government Act 2001 and the Code of Conduct for Councillors. Councillors should be aware that the onus for complying with the requirements of the Act and the Code of Conduct lies with each individual Councillor. He reminded Councillors that under the beneficial interest provision and should that provision apply, a Councillor must:

- (1) Disclose the nature of his/her interest or the fact of a connected person's interest at the meeting and before discussion or consideration of the matter commences and
- (2) Withdraw from the meeting for so long as the matter is being discussed or considered, and accordingly, he/she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

Submission No. 35 – Michael, Jackie & Danny Healy-Rae

Mr. T. Sheehy informed members that there were a number of points raised in this submission as follows: Point No. 1 states “Any family member applying for planning for an entrance onto the National Primary network of roads who will be connecting onto an existing family entrance should be allowed to do so and not be refused on these grounds.”

Mr. Sheehy informed the meeting that Submission Nos. 104 from the N.R.A. and 154 from P. Kelliher also deal with this issue and he referred members to Page 72 of the Manager’s Report where the Manager’s Recommendations on the N.R.A. submission are set out.

The first recommendation reads as follows:

It is recommended that INF 8-17 should be amended as follows:

INF 8-17	Prohibit development in areas identified as study corridors for the route selection of National Primary roads, as identified on maps 8.2-8.10 until such time as a particular route has been identified.
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Mr. Sheehy said that pending route selection development would not be permitted.

Cllr. M. Gleeson said that he had no objection to this recommendation provided it was done within a reasonable timeframe unlike the Farranfore to Killarney road.

Mr. T. Sheehy said that he could see a difficulty with that. However, if an application for permission was submitted along a route corridor the Planning Department could contact the N.R.A. to try to narrow down the route corridor if possible. However he did not want to compromise the route selection.

Cllr. M. Healy-Rae said that this is a very important point. If a son or a daughter are living at home and they already have a car the construction of a new house using the existing entrance will not intensify traffic onto that road. He felt this was a very common sense approach.

Mr. T. Sheehy advised Cllr. Healy-Rae that that issue related to the 2nd point in his submission and he would deal with that in due course.

Cllr. T. Fitzgerald said that he did not want to stifle development and there should be a timeframe put on the route selection.

Mr. T. Sheehy said the Planning Department would consult with the N.R.A. to narrow down the route corridor if possible. This may result in the corridor map being altered which would then permit the planning application to proceed. He said that he did not want to stymie the development of the road either.

Cllr. D. Healy-Rae said that where family members want to use existing entrances they should be facilitated. He thanked the County Manager for his assistance in facilitating family members in recent times. If this provision was included in the County Development Plan it should make it easier for both applicants and planners. He could not see the logic by the N.R.A. in not permitting access for a new house through an existing access as the planning applicant is using this already. As time goes on less family members will be using the access and he felt that this proposal was not outrageous.

On the PROPOSAL of Cllr. M. Gleeson, SECONDED Cllr. T. Fleming it was agreed that the recommendation in the Manager's Report in relation to the objective INF 8-17 be agreed.

Mr. T. Sheehy then referred members to the second recommendation in the N.R.A.'s submission, which reads as follows: "It is recommended that the following be inserted as Objective INF 8-20(a)."

Objective No.	National Routes
	It is an objective of the council to:
INF 8-20(a)	Prohibit the intensification of use of existing accesses onto national roads which could have an adverse impact on the safety, carrying capacity and operational efficiency of roads.

Cllr. M. Cahill requested clarification on the current position in relation to the Ring of Kerry route where family members are seeking planning permission and proposing to improve significantly the access onto the road. These family members have lived at the family home all their lives and they should be facilitated.

Cllr. P. McCarthy said that both these recommendations are interlinked and wording should be agreed for an objective to facilitate family members. This would allow planners to grant permission without each file having to be referred to Senior Management. These family members are living in the family home and are already using the entrance. Other family members gradually move away and the present situation is not easy for the applicant or Planning Department.

Cllr. J. Sheahan agreed with the sentiments expressed by Cllr. McCarthy and said that it is unfair on planning applicants who are already living at home and are refused permission. The new development will not result in an increase in traffic and the Planning Department should re-consider their position on this. Cllr. Sheahan added that the number of planning applicants in this category is small.

Cllr. B. O'Connell said that the three main arteries into Castleisland Town are National Primary routes. He was aware of a situation following the provision of the new road to Tralee where the N.R.A. objected to a planning application on the old road because it led out onto the new National Primary road yet the planners wanted to grant permission.

Cllr. M. Gleeson said that there cannot be a fundamental objection to the granting of permission for development on minor roads just because they access a national route and members must support these applicants.

Cllr. A. McEllistrim said that members always intended to prioritise family members and they must be permitted to exit onto side roads, as it will not result in additional traffic.

Cllr. T. Fitzgerald said that he supported the submission from the Healy-Rae family in support of family members. Family members should be facilitated if at all possible. There is massive unemployment in the county and anything that improves the lives of our citizens should be supported.

Mr. T. Sheehy said that he did not agree that traffic would not be intensified if a new development was permitted. He accepted that some family members would leave the family home but said that if the family member at home marries he will have a wife and a family and this will result in additional traffic. He asked would these families have to be accommodated in 15 or 20 years. There is no denying there will be an intensification of traffic as a result of the new development and the important issue of health and safety must be taken into consideration. He added that the signing off of a planning permission in these cases may have implications for staff.

Mr. P. Stack, Senior Engineer said that from a technical point of view this is a very serious issue. Records have shown that 50% of accidents between 1996-2004 happened at junctions with right turning points. The N.R.A. has issued numerous circulars in this regard and his department must have regard to them. The use of existing entrances for new houses does add to traffic and there is added danger during construction. The safety of all road users is of paramount importance. If an application is on a national route it must be referred to the N.R.A. for their views and if they indicate that permission should not be granted the Planning Authority cannot grant permission regardless of what is contained in the County Development Plan.

Cllr. N. Foley said that it is a very keen objective of the members that they want to be pro-family members and they want to co-operate with management on this. Members now have an opportunity to copper fasten that objective in the new County Development Plan. 'Family' refers to offspring also. Many family members choose to live next to their parents to care for them in their old age. If the council is serious in its intention to support family members they must support this objective. If the family member is already driving they are using the existing entrance.

Cllr. T. Ferris said that she understood that the application must be referred to the N.R.A. but said that various objectives in the Kerry County Development Plan could be at variance with the policies of national bodies. Members are proposing to include an objective in the County Development Plan for the next 5 years and where there is an existing entrance she would support it. It was not fool hardy to do so at it is proper sustainable development. There are many benefits to society by having family members living next to their parents. She said that she strongly supported this objective.

Cllr. D. Healy-Rae said that this was not an outrageous request and he rebutted some of the comments made by Mr. Sheehy. He added that the applicant's parents would not live forever and he did not agree that there would be additional danger during the construction phase. The planning applicant must provide a house at some location. He added that this is a very serious matter and he PROPOSED this element of the submission.

Cllr. P. McCarthy said that he listened with interest to both sides of the argument. Mr. Sheehy's arguments are compelling from a legal point of view. If family members are to be facilitated it appears to be very difficult to come up an acceptable wording. He PROPOSED that Objective INF 8-20(a) be removed from the County Development Plan.

Cllr. R. Bealsey supported the Healy-Rae submission and said that the countryside is decimated.

Cllr. B. MacGearailt said that this is another one of the Directives from Dublin. If there is an existing access a planning applicant should be permitted to use it as it is a very practical proposal.

Mr. T. Sheehy agreed with Cllr. Ferris and said that it is preferable to have a son or a daughter living next door to their parents. However, there is a safety issue at stake. The purpose of the County Development Plan is to outline clear objectives but also to make it clear what happens if someone applies for planning permission. In the event of an accident there could be criminal prosecutions and

action may be taken by the H.S.A. This could result in a prosecution of the official who granted permission. He asked if the County Development Plan was going to reflect how such applications would be dealt with. If this provision is removed from the Draft Plan it will not be evident to planning applicants. He added that there are a number of engineers around the country who are the subject of criminal proceedings by the H.S.A. and they could lose their jobs. It is important that the County Development Plan would include this objective.

Cllr. M. Healy-Rae said that Mr. Sheehy was talking about reflecting the wishes of the N.R.A. in the County Development Plan. However members represent the people of the county. It is unfair to force members on this issue. Members were elected to serve the people they represent and they would like to see sons and daughters living next door to their parents to enable them to drive their elderly parents to mass, the doctor etc.

Cllr. B. O'Connell asked if this objective would also apply to National Secondary Roads.

In response Mr. T. Sheehy said that it would.

Cllr. J. Brassil asked in light of the debate would it be acceptable to adopt the objective and include the words 'where safety permits'.

Cllr. D. Kiely referred to the comment by Mr. Sheehy that planners could be open to prosecution and said that these entrances are already in place.

Mr. C. O'Sullivan said that national policy is very much underpinned by health and safety issues. 40% of accidents are as a result of right turning movements. If the N.R.A. recommends that permission should not be granted the Planning Authority cannot over-rule them. In Kerry there was a fatality on a National Primary route in the past 12 months and we must have regard to national policy. He understood that the Department and the N.R.A. are currently reviewing this policy and he was awaiting the outcome of this review.

Cllr. D. Healy-Rae said that there is a blanket ban on the granting of planning permission on the N22 and he was asking that this ban would be removed. When an application for planning permission is received and the N.R.A. objects to it fair play should prevail and the applicant should be permitted to use the parents' access. He added that Cllr. Brassil's proposal would allow for this.

Cllr. T. O'Brien supported Cllr. Brassil's proposal.

Cllr. M. Healy-Rae said that members accepted that safety was of paramount importance but said that family members must be facilitated.

Mr. T. Curran, County Manager, urged members to be cautious and said that the intensification of use of an access point onto these routes could have an adverse effect on road safety. If this objective is excluded from the County Development Plan it could result in a free for all. The N.R.A. will oppose it and it will not allow the council to make any positive decisions as the N.R.A. would appeal these decisions to An Bord Pleanala. He wanted to be in a position where he could grant planning permission if it was appropriate. There is some flexibility in the County Development Plan at the moment but if this objective is removed there will be no flexibility for the Planning Department. The objective reads: "Prohibit the intensification of use of existing access onto National Roads".

Cllr. B. O'Connell said the N.R.A. is the Planning Authority for national routes.

In response Mr. T. Curran, County Manager, said that this is national policy and any provision that stops national policy being implemented will be overruled. Members must be pragmatic in approaching this issue and if this objective is removed every application in this category will be refused.

Cllr. M. Healy-Rae again read the objective and said that he believed it is not open to interpretation and Management were asking members to adopt it.

Mr. T. Curran asked members what was the alternative.

Cllr. M. Healy-Rae said that he was not advocating a free for all.

Mr. T. Curran said that if this objective is removed all subsequent decisions will be appealed to An Bord Pleanala.

Cllr. M. Healy-Rae said that he was only advocating that family members should be allowed to use existing access points. He was aware of one case in Glenbeigh where an applicant was refused permission yet she is still using this road. There appears to be a blanket ban on the granting of permission on National Secondary roads.

Cllr. B. MacGearailt said that this is a very important issue as it is planning applicants on National Primary and National Secondary roads that are affected. This matter must be addressed at a national level and all motorists must be conscious of access points and drive carefully at them.

Cllr. P. O'Donoghue said that he had been as critical as anyone of management that they seem to be styming development and not encouraging or stimulating development. The situation has never been worse in the property market and no one is free from the recession. People are losing their jobs yet Kerry County Council is still refusing planning permission. People who are presently applying for planning permission are genuinely in need of housing and the new County Development Plan should reflect these needs. It is all very well for the council

employees, who are in recession proof jobs but others are not so fortunate and need to be supported. It is important to project jobs and our own people. The Draft County Development Plan is not pro-jobs and he accepted the bona fides of Cllr. Healy-Rae's proposal. However, it would be doing a dis-service to the county as this local authority could be sued if members go against the recommendations of the N.R.A. He added that he was pro-development and said that the case in Glenbeigh quoted by Cllr. Healy-Rae was a disgrace. He supported the wording proposed by Cllr. Brassil incorporating "where safety permits" and the Council should be pro-development.

Mr. T. Curran, County Manager, said that Management do not feel they are in recession proof jobs and it is not true to say that they are not pro-development. The number of planning applications granted is proof of this. He called on Cllr. O'Donoghue to withdraw his underhand comment.

Cllr. P. O'Donoghue said that his statement was not underhand. One third of planning applications were refused in 2008. This is similar to the refusal rate in times of economic boom. There are huge dole queues and the Council can help to bring more flexibility into the planning system. The Council has a duty to help those who are trying to provide a home.

Mr. T. Curran, County Manager, said that many planning applications are refused on safety grounds and alternative sites are available but people are not prepared to accept them. The Planning Department granted far more permissions that were used or required to meet the population increase. Kerry County Council did not cause the recession but are being blamed for it. County Kerry is a major tourism asset and he would not allow it to be destroyed for short term gain.

Cllr. B. MacGearailt agreed that planning permissions granted by Kerry County Council are three times in excess of what is required for housing. However, permission was granted in towns and villages where the public did not want it.

Cllr. T. Fitzgerald said that members are talking about the use of existing access points. The County Development Plan is the prerogative of elected members and they feel that existing family entrances should be used where possible. He then called for a vote to be taken.

Cllr. M. Healy-Rae said that he appreciated the sentiments expressed regarding the economic downturn. However it was unfair to make comments about the County Manager as this was unnecessary.

Cllr. D. Healy-Rae called for a vote to be taken on his proposal. He wanted permission to be granted to applicants using existing entrances instead of a blanket ban and he PROPOSED this.

Cllr. J. O'Connor requested clarification on the legal aspect of this proposal and he said that he was aware of one case pending. He said that it was important that members would take this into consideration.

Cllr. T. Fleming said that members were already given clarification on this issue.

Cllr. M. Healy-Rae said that he would be prepared to accept the amendment proposed by Cllr. J. Brassil.

On the PROPOSAL of Cllr. J. Brassil, SECONDED by Cllr. T. O'Brien, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015, hereby resolves that the text of Objective INF 8-20(a) be replaced by the following: "It is an objective of this Council that any family member applying for planning for an entrance onto the national network of roads who will be connecting onto an existing family entrance should be allowed to do so and not be refused on these grounds where safety permits.

A vote was taken on this proposal, which was resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, P. Connor-Scarteen, Ferris, T. Fitzgerald, Foley, Gleeson, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, MacGearailt, McCarthy, McEllistrim, Miller, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea, Purtill, Sheahan, Fleming **(25)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. Cronin and S. Fitzgerald **(2)**

The Mayor declared the resolution carried.

Mr. T. Sheehy again referred members to the end of Page 72 and the top of Page 73 in the Manager's Report and the next recommendation on the N.R.A. submission, which reads as follows:

"It is recommended that the wording of section 8.2.9 be amended as follows: 8.2.9. In accordance with Objective INF 8-19 new accesses onto a National Primary and National Secondary roads will not be permitted except in the following:

1. Developments in areas where the 50 kph or equivalent speed limit applies.
2. *In exceptional circumstances*, large-scale industrial or commercial developments that are tied to a fixed resource and are considered to be of extreme economic necessity to the area and the county.

‘Exceptional circumstances’ shall be determined having regard to the N.R.A. “Policy statement on Development Management and access to National Roads” in particular section 3.2.6 (Ref. INF 8-20).

In relation to these exceptions the Planning Authority will require to be satisfied that the developer will incur the costs of any upgrading necessary to safeguard the carrying capacity and free flow of movement on the National route, and to comply with the relevant sight distances outlined in the N.R.A. Design Manual for Roads and Bridges.”

Mr. T. Sheehy said that this is stating that no new entrances will be permitted onto National Primary and National Secondary roads, which is the current practice.

Cllr. B. O’Connell asked if National Secondary roads could be excluded from this objective.

Mr. T. Sheehy said that there is no ban on new entrances onto National Secondary roads at present.

Cllr. M. Gleeson PROPOSED that this should be amended to read 60 kph.

Cllr. M. Healy-Rae SECONDED this proposal and said that he had a difficulty with a blanket ban on new entrances onto National Secondary roads.

Mr. T. Sheehy pointed out that that is the main change from the current County Development Plan.

Cllr. M. Healy-Rae said that this would close down the Ring of Kerry road. Kerry has more National Secondary roads than any other county and he would not be in favour of this.

Cllr. D. Healy-Rae expressed his opposition to this recommendation.

Cllr. B. O’Connell PROPOSED that the reference to National Secondary roads be removed from this objective.

Cllr. M. Healy-Rae SECONDED this proposal.

Cllr. M. Gleeson said that the objectives in relation to National Secondary roads should be a little less rigid.

Mr. T. Sheehy said that members could take a vote to accept the wording in the Manager’s Report in respect of section 8.2.9 with the exception of the removal of the words ‘and National Secondary’. In relation to the proposal by Cllr. Gleeson,

that the 50 kph be amended to 60 kph he stated that it is the policy of the Department of Transport that this should be 50kph.

Mr. C. O'Sullivan, Director of Roads and Transportation, said that there is not a huge number of areas in the county where the 60 kph limit applies on National routes. He said that national statistics and accidents statistics must be taken into account when preparing the County Development Plan. Twice as many accidents happen with vehicles travelling at 60kph. National Policy states that this should remain at 50 kph.

Cllr. M. Healy-Rae asked why the land beyond this was zoned.

In response Mr. T. Sheehy said that he had advised members that this land was outside the speed limit when they were zoning it.

Cllr. M. Healy-Rae said that it was reasonable and fair to amend this to 60kph.

Mr. G. O'Brien advised members that it should be possible to take both these amendments in one vote if that was acceptable to Cllr. Gleeson.

Cllr. Gleeson agreed with this suggestion.

On the PROPOSAL of Cllr. B. O'Connell, SECONDED by Cllr. M. Healy-Rae, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves to accept the wording in the Manager's Report on Section 8.2.9 with the exception of removing the words 'and National Secondary' and changing 50 kph to 60 kph.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, P. Connor-Scarteen, Cronin, Ferris, T. Fitzgerald, Foley, Gleeson, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, McCarthy, McEllistrim, Miller, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea, Purtill, Sheahan, Fleming **(25)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. S. Fitzgerald, MacGearailt **(2)**

The Mayor declared the resolution carried.

Mr. T. Sheehy informed members that the outstanding recommendations in the Manager's Report in relation to the N.R.A. submission are minor text changes which read as follows: "It is recommended that section 12.2.6 should be amended as follows:

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Residential development in these zoning designations will be regulated in accordance with the provisions of ~~Table 3.8.10~~ *Chapter 3 Part 2*.

It is recommended that the following bullet points in paragraph 13.5.1. shall be amended as follows:

- Development along National Primary Routes shall be in accordance with the provisions of ~~section 12~~ *sections 8.2.6 & 8.2.9*. It is important to maintain the carrying capacity of these routes which are of strategic importance to the economic development of the county;
- Where it is intended to develop more than one dwelling on a family landholding for the use of sons and daughters in accordance with the provisions of ~~12 section~~ *8.2.6 & 8.2.9* the landholder will be encouraged to provide such houses in a cluster layout.

It is recommended that objective INF 8-24 shall be amended as follows:

INF 8-24	Ensure that Traffic and Transport Assessments shall, <i>where appropriate thresholds are met</i> , be in accordance with the N.R.A. Traffic and Transport Assessment Guidelines (September 2007)
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It is recommended that the first bullet point in paragraph 13.2.18 be amended as follows:

- Where there is a ~~new access~~ *any change to the layout* to an existing national primary, national secondary or regional road network as a result of the development other than single residential.

It is recommended that INF 8-22 should be amended as follows:

INF 8-22	Ensure that developers of lands adjacent to planned national roads shall be responsible for any mitigation measures required. The developer shall provide a written undertaking confirming that Kerry County Council will not be responsible for any mitigation measures necessary to offset any impacts (e.g. noise, visual amenity and
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	privacy) that the proposed road scheme may have on the development. <i>In particular developers shall have regard to the 2006 Environmental Noise Regulations.</i>
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On the PROPOSAL of Cllr. B. O'Connell, SECONDED by Cllr. P. McCarthy it was unanimously agreed that these recommendations be adopted.

Submission No. 35 Michael, Jackie and Danny Healy-Rae, Kilgarvan (Cont'd)

Mr. T. Sheehy referred to Point no. 2 raised in this submission which reads as follows: "That we revert to the occupancy clause which the elected members of Kerry County Council unanimously agreed to in 2003, stating that we have 2 year occupancy clause on all planning permissions granted."

Mr. Sheehy then read the Manager's Response to this point into the record of the meeting:

"Following the adoption of the Kerry County Development Plan in 2003 there have been significant changes in planning, both in the planning policy and development management sections. Extensive negotiations with management led to an understanding of accommodating family members being a priority for the Planning Section. It was agreed that every effort would be made to accommodate family members and special arrangements such as pre-planning on-site was introduced to facilitate this. As a quid pro quo for this policy the bona fides of applicants applying needed to be copper fastened and this was achieved by using the 7 year occupancy clause. This 7 year occupancy clause is recommended in the Sustainable Rural Housing Guidelines published by the Department of the Environment, Heritage and Local Government in April 2005 and is also used by An Bord Pleanála. It is considered that any bona fide applicant requiring a home for themselves or their family will have no difficulty with the 7-year clause. A recent circular (SP 5-08) from the Department of the Environment, Heritage and Local Government, has reiterated the need for consistency in the application of the occupancy clause and has reaffirmed the 7 year occupancy clause as included in the 2005 guidelines."

Cllr. M. Healy-Rae said that he was only proposing that the Planning Department would revert to what was agreed in 2003 i.e. that the two-year occupancy clause would apply. Every person applying for planning permission at the present time is seeking to provide a family home but when this permission is granted their hands are tied. At present work is scarce and he could see no reason why a two year occupancy clause would not be acceptable and allowances could be made if circumstances alter.

Cllr. D. Healy-Rae said that a number of applicants had a problem with the 7 year occupancy clause and he had at least 6 such cases last year where the owners wanted to sell their houses because their jobs had moved or they got married

and moved to a different location. He understood that it would be acceptable if they could find someone local who would be willing to purchase the house as this would allow them to sell their house with dignity. However, Management refused to grant planning permission to the purchaser. The owner of that house then lost his dignity and the Bank moved in and sold the house. This puts a stigma on their payment record. He called on Management to adhere to the two-year clause agreed by the members in 2003. This would make it easier for both planners and applicants. He had one instance in Farranfore where a person wanted to buy a site as they were working in Castleisland and his wife was working in Tralee but this would not be permitted.

Cllr. J. Brassil said that the 7-year occupancy clause has been of help to many family members. In the majority of circumstances the 7-year clause does not impact on the applicant but when exceptional circumstances present themselves the Planning Department needs to be more flexible. Provision should be made for exceptional circumstances when a person applies to have the occupancy clause removed. They should be facilitated where their job changes or if they are in financial difficulty. When a house is built it is in place and when a purchaser applies for planning permission it would make no material change to the house. It should be a primary objective to facilitate the person who wants to sell the house and also the buyer provided the buyer uses it as their primary place of residence. In conclusion, he said Kerry County Council should be more flexible in these instances.

Cllr. T. Ferris pointed out that the adoption of the two-year occupancy clause was not unanimous and she did not support it. She was strongly in favour of the 7 year occupancy clause provided there is more flexibility. She believed that it is less likely that planning permission would be granted if the occupancy clause was changed to two years. She asked that there be a bit more flexibility with the 7 year occupancy clause for genuine applicants. There are exceptions where a house is built and the Bank is threatening to repossess the house. If the buyer lives in the house on a full time basis they should be granted permission. However, in a number of instances when the house owner found a purchaser who was from the area the purchaser was not granted permission.

Cllr. B. O'Connell asked if the occupancy clause is as pertinent now as it was in the boom times. He added that the Planning Department were very accommodating when he made representations on behalf of an applicant and he felt that the seven-year occupancy clause should remain.

Cllr. M. Cahill said that members must be very careful. Members had given priority to facilitating family members and many of them are satisfied with the seven-year occupancy clause. He urged members to be cautious and said that financial reasons cannot be used in the County Development Plan. The seven-

year occupancy clause had served members well but he acknowledged that there is a need to cater for exceptional cases.

Cllr. J. Sheahan said that some applicants are bound by the seven year occupancy clause and the Planning Department should be more lenient in accommodating them.

Cllr. B. Cronin urged members to be cautious in particular in making any changes to this provision. A number of years ago there were 60 to 70 Section 140 Motions on the Agenda and members advocated they wanted to secure planning permission for family members. This issue was subsequently addressed in many cases and part of the solution was the introduction of the 7-year occupancy clause. At that time most members said they had no difficulty with the introduction of this clause. He acknowledged that there are exceptional circumstances where people's situations have altered radically. He was aware of two cases where people who were looking to build their own home are on the Council waiting list because of their financial circumstances. There are also two genuine applicants on the housing list who cannot get planning permission because they are not the sons or daughters of landowners. He added that he had no difficulty with the seven-year occupancy clause provided genuine cases are addressed. He said that it had come to his attention that some planning agents are advising ordinary people where there is a seven-year occupancy clause that it can be sorted out but they are subsequently refused planning permission. They are advised that if they go to the right people it can be sorted out. He requested clarification on this issue.

Cllr. M. O'Shea said that the last County Development Plan had a seven-year occupancy clause but provision was made for exceptional circumstances on financial or medical grounds or when a person's job changed. This provision is already there and it should be implemented and included in the new County Development Plan.

Cllr. P. O'Donoghue stated that there was provision in the last County Development Plan where there are exceptional circumstances on health, financial or by reason of moving for a job when the seven-year occupancy clause was waived. He asked if this provision was implemented, as he was aware of one case where a young couple were not facilitated. If an applicant is genuine and the bona fides of their application could be verified they should be accommodated. The two-year occupancy clause facilitates the speculator, while members want to accommodate genuine local applicants. If the son or daughter of a landowner must put their home up for sale the new owner must apply for planning permission. It is a matter for the council to waive the seven-year occupancy clause and not the new applicant.

Cllr. N. Foley said that members are unanimous in their view that in the current climate some people, for genuine reasons, cannot comply with the occupancy

clause. She suggested that the wording “for verifiable reasons” could be included to ensure that such people are accommodated. She PROPOSED that the words ‘for verifiable reasons in exceptional circumstance’ be included.

Cllr. J. Brassil SECONDED this proposal.

Cllr. M. Gleeson said that in a tourist county like Kerry there is a great degree of mobility and a high percentage of people move on. If there is flexibility this clause will operate fairly and these cases can be resolved.

Cllr. D. Healy-Rae asked why the seven year occupancy clause should be included in the new County Development Plan as a number of people had difficulties with this clause under the old plan. He was aware of six such cases where the proposed purchasers applied for planning permission but were refused. He wanted to allow a person their dignity to sell their own home. He asked Cllr. Brassil to clarify his proposal and he agreed that most people have no difficulty with the seven-year occupancy clause. However, there are some exceptions and they must be catered for.

Cllr. T. O’Brien said that the seven-year occupancy clause has been a help in genuine cases. He asked how strictly is it implemented and if exceptional circumstances arise who decides if the occupancy clause will be waived as all applicants need to know what the opt out position is.

Cllr. T. Ferris said that in the last 12 months the opt out clause has changed. Previously the applicant submitted a letter to the Planning Department outlining their change in circumstances but now the intended purchaser must apply for planning permission. A number of these have been refused permission and the person selling the house must start all over again. She suggested that the Planning Department should revert to the old situation whereby the documentation was submitted and it was not necessary for the purchaser to apply for planning permission.

Cllr. J. Brassil supported this suggestion.

Mr. M. McMahon welcomed the thrust of the debate in favour of the seven-year occupancy clause. He added that there is a reference in the Manager’s Report to a Circular Letter from the Department which relates to the case taken to the E.U. Commission which sought observations on whether the ‘local need’ assessment test set out in the Department’s 2005 Sustainable Rural Housing Guidelines for Planning Authorities and contained in County Development Plans for the consideration of planning applications for one-off dwellings in rural areas is compatible with Articles 43 and 56 of the EC Treaty which guarantee respectively the freedom of establishment (of business) and the free movement of capital. Mr. McMahon quoted the following from that Circular letter “A bone fide applicant who may not already live in the area, nor have family connections

there or be engaged in a particular employment or business classified within the local needs criteria, should be given due consideration within the proper planning and sustainable development objectives for the area subject to the following considerations:

- Required to satisfy the planning authority of their commitment to operate a full-time business from their proposed home
- How their business will contribute to and enhance the rural community
- That the nature of their employment or business is compatible with those specified in the local need criteria for rural areas so as to discourage applicants whose business is not location-dependent (e.g. telesales or telemarketing).

It is recommended, therefore, that all rural planning authorities should, if not already doing so, adopt and implement the seven-year period, as set out in Appendix 1 of the Guidelines.”

Mr. McMahon advised members that the Department are pointing out that different planning authorities have different lengths of time in their occupancy clause and this could lead to further cases being taken to the European Commission in relation to the European Market. The Planning Department deals with people who have difficulties with this clause. In one case his Department were asked to waive the occupancy clause while at the same time the Planning Department was in pre-planning discussions with his brother with a view to getting planning permission on the same landholding. In another case an application was submitted for planning permission on a site that was for sale. The applicant said that it was for his own use. When he received permission an application was submitted to have the seven-year occupancy clause waived. The only means of waiving a condition of planning is to re-apply for permission. He said he wished to give clear advice to anyone who had genuine difficulties that his Department would deal with them. Permission can be granted provided the person purchasing the house meets the Rural Settlement criteria and a new seven year occupancy clause will be attached to the new planning permission.

Cllr. N. Foley asked if there was provision in the County Development Plan to deal with exceptional circumstances.

In response Mr. T. Sheehy said that no such provision was contained in the new County Development Plan but his Department had always dealt with such cases. In many of these cases the houses are already built and there will be no roads issues and every effort is made to give a decision on the application as soon as possible.

Mr. M. McMahon, Director of Planning, said that this type of planning application does not require plans just a simple planning application. The occupancy clause is then applied to the second applicant. A statement can be included in the Plan that people in genuine circumstances can be dealt with.

Cllr. N. Foley PROPOSED that “verifiable exceptional circumstances be taken into account” be added to the County Development Plan to deal with exceptional cases.

Cllr. J. Brassil SECONDED this proposal.

Cllr. D. Healy-Rae referred to the cases mentioned by Mr. McMahon and in particular the two brothers and said that there were a lot more extenuating circumstances involved and the owner was denied the dignity of selling his own house. He PROPOSED that the two-year occupancy clause would apply.

Cllr. M. O’Shea asked if a site is given to a family member and they move away because of their job could some local person acquire this site and be granted planning permission. He pointed out that there are many sites for family members lying idle.

Cllr. C. Miller said that he was in favour of the seven-year occupancy clause. He asked if a person purchasing a site or a house from a family member is obliged by law to apply for planning permission. It was much easier when a letter would be accepted by the Planning Department. It appeared to him that the only reason that a person must apply for permission is to allow the Planning Department to attach the seven year occupancy clause to the new owner.

Mr. M. McMahon said that there was no provision in law to enable his Department to waive a condition of planning. The only way this can be done is to apply for planning permission again. He added that provision is made for local need where the applicant has no land, they can make a planning application in a rural area and subject to certain conditions they can be granted permission. However, in some areas permission will only be granted to sons and daughters of landowners. If another local person applies they will not be granted permission.

Cllr. J. Brassil said that there is nothing to stop Kerry County Council issuing a letter to the intended purchaser stating that they have no objection to the granting of permission prior to the intended purchaser applying for permission. This can be a very delicate situation as Banks are moving in on the house owner and the Council must do everything in its power to assist them. Where verifiable evidence is available the house owner should be given every opportunity to remove the clause and to have it applied to the new owner.

Cllr. P. McCarthy stated that where the seven-year occupancy clause has applied and exceptional circumstances arise they are dealt with by the Planning Department. He asked if the proposed two-year occupancy clause would apply to areas zoned Rural General where there is population decrease.

Cllr. D. Kiely asked what happens when a Bank forecloses and a house is then put up for sale. Does the occupancy clause apply in this case?

Cllr. D. Healy-Rae said that the family member can run into difficulty and they should be permitted to sell the house to another local person. He asked if a family member had to sell a house would they be facilitated.

Mr. M. McMahon said that the person in difficulty would be allowed to sell a house provided the purchaser satisfies the criteria in the Rural Settlement Policy and if Banks sell a house the intended purchaser must also apply for planning permission and satisfy the criteria of the Rural Settlement Policy.

Mayor T. Fleming said that the Department of Environment, Heritage and Local Government, are calling for uniformity in the implementation of the seven-year occupancy clause and he asked if this was binding on Kerry County Council. He agreed with the proposal by Cllr. N. Foley that special provision would be made for genuine cases. He said he was familiar with a case where a young person owned a site and they died. A local person wanted to purchase this site and applied for planning permission but they were refused.

Cllr. J. O'Connor said that planners had given permission in genuine cases and he had every confidence in them to be fair.

Cllr. D. Healy-Rae called for a vote to be taken on his proposal.

Mr. T. Sheehy pointed out that Cllr. N. Foley also made a proposal.

Cllr. B. Cronin requested clarification on the statement that the occupancy clause must apply to locals and non-locals as stated in the Department Circular Letter.

In response Mr. M. McMahon said that right of movement must be respected under E.U. law. The Circular letter he quoted clarified that the 2005 Guidelines still apply. If a person is not from an area they should not be ruled out automatically. If they genuinely have a need to live in an area because of employment reasons they should be eligible for consideration for planning permission. He added that E.U. law takes precedence.

Mr. G. O'Brien informed the meeting that a vote would then be taken on the proposal by Cllr. M. Healy-Rae, which was seconded by Cllr. D. Healy-Rae.

On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. D. Healy-Rae, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves in respect of Submission 35 (2) that the seven year occupancy clause be reduced to two years.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. P. Connor-Scarteen, D. Healy-Rae, M. Healy-Rae, Kiely, Sheahan, Fleming **(6)**

Against: Cllrs. Beasley, Brassil, Buckley, Cahill, Cronin, T. Fitzgerald, Foley, Gleeson, Leahy, MacGearailt, McCarthy, McEllistrim, Miller, O'Connor, O'Donoghue, O'Shea, Purtill **(17)**

Not Voting: None **(0)**

Absent: Cllrs. Ferris, S. Fitzgerald, O'Brien, O'Connell **(4)**

The Mayor declared the resolution defeated.

Mr. O'Brien then informed the meeting that a vote would be taken on the proposal by Cllr. N. Foley, which was seconded by Cllr. J. Brassil.

Cllr. M. Gleeson suggested that the words 'changed circumstances' should be incorporated in this vote.

This was agreed.

On the PROPOSAL of Cllr. N. Foley, SECONDED by Cllr. J. Brassil, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves to insert the following text to the end of Paragraph 3.7.11 'in verifiable changed circumstances' subject to a planning application the planning authority will consider amending this clause for genuine applicants.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, P. Connor-Scarteen, Cronin, T. Fitzgerald, Foley, Gleeson, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, MacGearailt, McCarthy, McEllistrim, Miller, O'Connor, O'Donoghue, O'Shea, Purtill, Sheahan, Fleming **(23)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. Ferris, S. Fitzgerald, O'Brien and O'Connell (4)

The Mayor declared the resolution carried.

Cllr. P. O'Donoghue said that there were a number of people in the public gallery and he requested that their submissions would then be dealt with. He called on members to condense the debate and to set time limits for each speaker and each submission.

Cllr. M. Healy-Rae PROPOSED that a vote would be taken on Item No. 3 in his submission.

Mr. T. Sheehy informed Cllr. Healy-Rae that this is already contained in the Draft County Development Plan.

Cllr. P. O'Donoghue pointed out that Points No. 4 and 5 in Submission No. 35 have already been dealt with. Point number 6 states that due to the high cost of submitting a planning application every effort should be made to deal positively and speedily with them.

Mr. T. Sheehy said that every planning application is dealt with as quickly as possible. He then referred to Point No. 7 which reads as follows: "Kerry County Council should devise a set of Design Guidelines similar to that produced by Cork County Council" and he said that it is intended that such Guidelines will be published in the next few weeks.

Submission No. 41 – Bridget O'Connor, Secretary, Irish Rural Dwellers Association (Kerry Branch)

Mr. T. Sheehy said that this submission was received from the Kerry Branch of the Irish Rural Dwellers Association and the Manager's Response is that there should be no amendment to the Draft Plan.

Cllr. B. Cronin said that the response to this submission highlighted conflicting arguments and he requested clarification on effluent treatment.

In response Mr. T. Sheehy said that the principle of water in water out applies and the issue is the disposal of water. If percolation is not available on site the only solution is disposal through a water course and this requires a licence. It is also possible that there may not be a solution.

Cllr. B. Cronin asked would there always be an engineering solution in areas of poor percolation.

In response Mr. T. Sheehy said that in some cases there might be while in others there would not be an engineering solution.

Cllr. B. Cronin said that this needed clarity as engineers have said that there is always an engineering solution.

Cllr. M. Healy-Rae said that this is one of the most comprehensive submissions made on the County Development Plan and he would not like to gloss over it without acknowledging it. He added that he supported the aims of the I.R.D.A. and he complimented and acknowledged the work that went into preparing the submission. He indicated his support for the submission.

Mr. T. Sheehy said that this is acknowledged in the summary of the submission and he acknowledged and complimented those who made the submission. Many of the issues raised by them are responded to elsewhere in the Manager's Report.

Cllr. P. Connor-Scarteen re-iterated that this was a very comprehensive submission and rural Ireland is becoming depopulated and needs to be revived. Farmers should be allowed to sell a site as they have been hit by savage cuts. It is important to cater for rural dwellers.

Cllr. D. Healy-Rae supported the submission and said that one time 68% of the population of Ireland lived in rural areas but this is now reduced to 36%. He added that there is nothing wrong with farmers selling a site.

Cllr. J. O'Connor supported the submission.

Cllr. R. Beasley PROPOSED the submission.

Cllr. M. O'Shea SECONDED the recommendation in the Manager's Report on this submission.

Mayor T. Fleming informed the meeting that it was almost 1.30 p.m. and the meeting would adjourn for lunch until 2.00 p.m.

Cllr. M. Healy-Rae asked that the members of the public present in the public gallery would be facilitated and their submissions dealt with first thing in the afternoon.

Cllr. R. Beasley requested that Submission No. 42 would be dealt with first.

Mayor T. Fleming referred to Cllr. O'Donoghue's remarks about Management and recession proof jobs and asked him if he wanted to withdraw this remark.

Cllr. P. O'Donoghue said that there was no offence intended but that the realities are out there.

The meeting adjourned for lunch at 1.30 p.m.

The meeting resumed at 2.25 p.m.

Votes of Sympathy

Mr. G. O'Brien said that there were two votes of sympathy proposed by councillors as follows:

- (1) Cllr. D. Healy-Rae and Cllr. B. Cronin proposed a vote of sympathy to Kathleen Duggan & Family, (Address withheld for data protection purposes) on the death of her husband Patrick.
- (2) Cllr. B. Cronin proposed a vote of sympathy to Mrs. Marie Leahy and Family, (Address withheld for data protection purposes) on the death of her husband Denis D. Leahy. He also extended his sympathy to Denis's sister and brother in-law Marie and Bernard O'Sullivan.

Submission No. 42 – Tom O'Connor, Listowel

Mr. T. Sheehy informed the meeting that this submission proposes that land at Dirrha East be zoned for housing. This land is approximately 9.7 hectares and is located on the Ballybunion to Listowel road. The land is not adjacent to the town and he indicated the land the subject of this submission on the map. He added that adequate land is already zoned in Listowel and this proposal does not make any sense from a planning point of view.

Cllr. R. Beasley PROPOSED that this land be rezoned for housing. This landowner has a 20-acre landholding within the speed limit. He was a farmer but this is no longer viable. He called on all members to support this submission.

Cllr. D. Kiely SECONDED this proposal.

Cllr. P. Leahy also supported this proposal and said there are major problems with the sewer in Dirrha and members were informed there were insufficient houses in this area to justify the provision of a new sewerage scheme. This landowner is prepared to develop this land. The sewer from Dirrha Cottages is presently going into the stream and this is a health and safety issue.

Cllr. T. Buckley supported the zoning of this land for residential development and said priority must be given to the provision of a sewerage scheme for Dirrha Cottages. Cllr. Buckley said that this land is on the road out of Listowel to Dirrha Cottages.

Mr. T. Sheehy said that none of the arguments have any relevance from a planning point of view. The land between this land and the town boundary is not zoned and he asked why members were not proposing that the intervening land be zoned. He could see no justification for the zoning of this land on planning grounds.

Cllr. R. Beasley said that this land is suitable for low-density housing and he could not understand why it should not be zoned.

Again, Mr. Sheehy asked members why were they proposing that this land be zoned and not another portion of land. He added that 5 houses have already been developed on this land and he considered that those 5 houses had exhausted the planning potential of the land. He recommended that members would not zone this land.

On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. D. Kiely, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 42 be zoned residential.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, P. Connor-Scarteen, Ferris, Foley, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, McCarthy, McEllistrim, O'Connor, O'Donoghue, O'Shea, Purtill, Fleming **(17)**

Against: None **(0)**

Not Voting: Cllrs. T. Fitzgerald, MacGearailt and Miller **(3)**

Absent: Cllrs. Brassil, Cronin, S. Fitzgerald, Gleeson, O'Brien, O'Connell, Sheahan **(7)**

The Mayor declared the resolution carried.

The Mayor stated that it was agreed that submissions for people present in the public gallery for the past two days would then be taken. He requested that Submission No. 84 would then be dealt with.

Submission No. 84 – John Brosnan, Currow

Mr. T. Sheehy informed the meeting that Michael McMahon, Director of Planning, Paul Stack, S.E. and himself had viewed this land since the last meeting. Pending satisfactory percolation test results and compliance with the Rural Settlement Policy he felt that one or possible two houses could be

accommodated on these lands and he recommended that members would agree to this.

The Mayor stated that Mr. Brosnan was hoping to get three houses on this land and he said there was a commercial aspect to it. There is very little development in Currow Village and in view of the amount of ground available he asked if there was any possibility that three houses could be accommodated.

Cllr. P. O'Donoghue supported the Mayor's request and said that this is a large site where permission was granted in the past for a commercial development. It is 500 metres from the village and this land could accommodate three houses without any impact on the environment.

Cllr. M. Healy-Rae supported the call for the accommodation of three houses on these lands and said that the land was suitable for it.

Cllr. A. McEllistrim supported the case for accommodating three houses on this land.

All Members present supported this position.

In response Mr. T. Sheehy said that he could not guarantee that permission would be granted for three houses and it would very much depend on the quality of the design submitted etc.

Cllr. T. Fitzgerald PROPOSED that the recommendation in the Manager's Report in relation to this submission be adopted.

Cllr. P. O'Donoghue SECONDED this proposal and it was agreed.

Submission No. 90 Dermot O'Brien, Firies.

Cllr. M. Healy-Rae said that when the Firies Local Area Plan was being considered this landowner made a submission and he was told at that time that his submission could be considered in the context of the County Development Plan. He has now made a submission on the County Development Plan and in relation to the sight lines he was glad that agreement was reached with adjoining landowners to ensure that the ditches can be taken away to improve sight lines. There is a desperate need for lands to be zoned for light industrial use in this area. He PROPOSED that these lands be zoned for light industrial use.

Cllr. J. Sheahan SECONDED this proposal.

Cllr. M. O'Shea also supported the proposal and said that this land is located very close to Firies Village and is an ideal location. It is also close to Kerry Airport.

Cllr. T. Fleming supported this submission and said that geographically it is in centre of the county close to the railway and the County Airport. There is a requirement for the zoning of industrial land in this area as there is a lot of housing in the area and it is important to have jobs near by.

Mr. T. Sheehy pointed out that this land is not connected to the sewer. He acknowledged that if the landowner acquired the adjoining land he may resolve the roads issue. He added that subject to adequate sight lines and the traffic issues being resolved and adequate percolation, he was willing to let this out as an amendment and it could be considered further following public consultation.

On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. J. Sheahan, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 90 be zoned for light industrial/commercial use.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, P. Connor-Scarteen, T. Fitzgerald, Foley, Gleeson, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, MacGearailt, McCarthy, McEllistrim, Miller, O'Connor, O'Donoghue, O'Shea, Purtill, Sheahan, Fleming **(21)**

Against: None **(0)**

Not Voting: Cllrs. Ferris, O'Connell **(2)**

Absent: Cllrs. Brassil, Cronin, S. Fitzgerald, O'Brien **(4)**

The Mayor declared the resolution carried.

Submission No. 91 – Patrick McCarthy, Lixnaw

Mr. T. Sheehy informed the meeting that this is a request for the zoning of 8.45 hectares or 20 acres of land for light industrial/commercial use. He indicated the land the subject of this submission on the map and said it is located on the Tarbert road out of Listowel. There is a turn off to the right and all the adjoining land is residential and he felt that the proposed zoning would cause amenity issues and incompatibility and he was opposed to it. It would be a large imposition on the residents of the area and there are 30 or 40 houses along this road. This is not a compatible use for that location.

Cllr. P. Leahy said that this land is currently zoned Rural General and it is located inside the speed limit. It would be used for a storage facility and he PROPOSED that it would be zoned light industrial/commercial.

Cllr. T. Buckley SECONDED this proposal and said that he was satisfied that there would not be a problem with the local residents.

Cllr. L. Purtill supported the proposal and said that it is in an ideal location for a light industrial development.

Mr. T. Sheehy said that this is a rural area and the only reason there is a speed limit is because of the number of houses on the road. He added that he could not see permission being granted at this location and he was concerned that compensation issues may arise. This development would give rise to additional traffic and would have implications for children in the area.

Cllr. J. Brassil agreed that this is largely a residential area but said that he did not believe that this development would be greatly obtrusive on anyone. He PROPOSED that this submission be agreed and that it would be put out for public consultation and if there is a reaction from the local residents then a final decision could be taken accordingly.

Cllr. D. Kiely SECONDED this proposal.

Mr. T. Sheehy said that he was opposed to the commercial element of this proposal on traffic grounds.

Cllr. P. Leahy said that he would agree to the zoning of this land for light industrial use only.

On the PROPOSAL of Cllr. P. Leahy, SECONDED by Cllr. T. Buckley, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 91 be zoned light industrial.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, P. Connor-Scarteen, Ferris, T. Fitzgerald, Foley, Gleeson, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, MacGearailt, McEllistrim, O'Connell, O'Connor, O'Donoghue, O'Shea, Purtill, Sheahan, Fleming **(22)**

Against: None **(0)**

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

Absent: Cllrs. Cronin, S. Fitzgerald, McCarthy, O'Brien (4)

The Mayor declared the resolution carried.

Submission No. 94 – Darryl Broe on behalf of Páidí Ó Shea, (Address withheld for data protection purposes)

Submission No. 95 – Darryl Broe on behalf of Páidí Ó Shea, (Address withheld for data protection purposes)

Mr. T. Sheehy informed the meeting that these submissions would be taken together.

Cllr. B. MacGearailt declared that in accordance with Section 177 of the Local Government Act 2001, he was a connected person to Mr. O'Shea and he would leave the meeting while the submission was being considered.

Cllr. MacGearailt then left the meeting.

Cllr. M. O'Shea said that he wished to pursue Submission No. 94 and Submission No. 95 was withdrawn.

Cllr. D. Healy-Rae asked what is a 'connected person' - would a cousin be deemed to be a connected person?

In response Mr. J. D. Flynn, Director of Corporate Services, said that in accordance with the Local Government Act 2001 a connected person means a brother, sister, parent or spouse of the person, or a child of the person or of the spouse. However, the Code of Conduct for Councillors deems that a member must declare an interest as the public's perception of the way a councillor is seen to deal with such matters is important for the maintenance of trust in Local Government. The councillor should note that when requested by Cllr. D. Healy-Rae previously he made this comment regarding the Code of Conduct in the context of planning.

Cllr. D. Healy-Rae asked if a first cousin is deemed to be a connected person.

In response Mr. J. D. Flynn said that strictly speaking 'no' but the Code of Conduct must be taken into consideration.

Mr. T. Sheehy indicated the lands the subject of this submission on the map and said that it is located between the road and sea in an area zoned Prime Special Amenity. The submission requests that the Paudie O'Shea licensed premises and the land to the east of these premises would be rezoned from Prime Special Amenity to Residential/Opportunity Site and/or Rural General. This zoning will facilitate the development of a Sports Interpretive Centre as part of a two storey re-build of the existing function room and a complimentary residential development to provide accommodation for family members, employees and

patrons of conferences to be held in the Interpretive Centre. Mr. Sheehy said that it would be acceptable that this land would be zoned Rural General.

Cllr. M. O'Shea said that the submission clearly requests that this land would be zoned Residential/Opportunity Site or Rural General.

Mr. T. Sheehy said that councillors made the Local Area Plan for the areas west of Dingle and by zoning this land to Rural General it would leave it open to residential development in the County Development Plan. He advised member to zone this site 'Rural General'.

Cllr. M. O'Shea said that no plan was prepared for Ard Bhóthair and this area is west of the Local Area Plan already made. He PROPOSED that this land would be zoned Residential/Opportunity Site.

Mr. T. Sheehy said that this was a matter for the members.

Cllr. M. O'Shea said that if this site is not zoned in three or four years if the landowner wants to proceed with the Interpretive Centre permission will not be granted.

Mr. T. Sheehy said that that was correct

Cllr. M. O'Shea said that the residential zoning will compliment the Interpretive Centre and he wished to proceed with the zoning of this land as Residential/Opportunity Site.

Mr. T. Sheehy informed members that they could not legally do this as they had taken a vote not to revisit the Local Area Plans. He added that holiday homes are not permitted in rural areas and this land cannot be zoned.

Cllr. P. O'Donoghue said that if members do not zone this land and defer it until the Local Area Plan is reviewed it would stop development for 3 or 4 years. To ensure that the Interpretive Centre is viable residential development must also be provided. It is up to the members to decide if they want to vote on this proposal. This proposal will invigorate the rural community and Udaras na Gaeltachta support it. He added that this is one of the most innovative proposals he had ever heard and it is important that Kerry County Council is seen to be supportive of it. He added that any difficulties could be overcome.

Mr. T. Sheehy said that if this land is zoned Rural General a material contravention procedure could be initiated later to overcome the difficulties associated with it. Members had taken a vote not to re-open the Local Area Plans and the present policy is that holiday homes are not be permitted in rural areas and there is no facility to make an exception to this. The best way forward is to zone this land Rural General.

Cllr. M. O'Shea said that he was not re-opening the Local Area Plans as no Local Area Plan was prepared for Ard Bhóthair. Development will not take place in many towns. A recent Sunday newspaper said that the average price of a new house in Kerry is €180,000 while the price of a second hand house is €150,000. He said that the time has now come for members to be courageous and if they see an opportunity for sustainable jobs they should take advantage of it. The people who want to develop the Interpretive Centre and complimentary accommodation have a vision and the Council should be proactive and not oppose it. This is an opportunity to create jobs for Ard Bhóthair and these people are hoping to attract as many 100 people to a conference, which will create massive employment in the region.

Cllr. Gleeson said that he did not want to break the law and he had visited this site. He was amazed at the plans for the Interpretive Centre and he could not see why there was a problem with it. Taken on its merits he said that the proposal to rezone these lands was acceptable and he **SECONDED** Cllr. O'Shea's proposal.

Cllr. J. Brassil supported Cllr. O'Shea's proposal and said that he understood that there could be no re-opening of the Local Area Plans. Submissions considered for the Local Area Plans could not now be reconsidered. However, a Local Area Plan was not adopted for Ard Bhóthair so he did not think that members would be breaching any previous agreement and he believed that members were legally entitled to zone this land. He too visited the site and there is unanimous support for this unique, worthwhile and welcome proposal. This development would benefit the entire area and the county and he could see no reason why this land should not be zoned.

Cllr. N. Foley said that the proposal contained in this submission is fantastically progressive for the area. Councillors are constantly expressing concern at the depopulation of rural Ireland and the County Development Plan should do all its power to revitalise rural Ireland. This proposal presents an opportunity to strengthen an existing rural community, to retain those who are already there and to attract more people into the area. This is an opportunity to create flagship tourism and tourists are needed to sustain the county. The Rural General designation would not provide for the accommodation aspect of the Interpretive Centre and all aspects of the development are needed if it is to succeed. The injection of employment that this development would give would be a massive boost to the area. She added that she had no recollection of a Local Area Plan being made for this area. It is now time to show vision, which would be encapsulated in the Plan to sustain and revitalise rural Kerry. She indicated her support for this submission.

Cllr. T. Fitzgerald said that he also supported the submission and had visited the site. He was satisfied that the proposed development would enhance the area

and he added that tourism is a major industry for Kerry. Members could not afford the luxury of ignoring important developments such as this one. It is important to avail of this opportunity to bring more people into this area. He said that he fully supported the zoning of these lands for residential purposes and it is important that the wishes of the members are heard. The proposed development is important taking into account the tourism aspect of the project. The people involved have a proven track record and this is a once off development. There are very few people with 8 All-Ireland medals. From a planning point of view there is nothing in the planning regulations, which would prohibit this zoning.

Cllr. M. Healy-Rae said that he visited this area regularly. He believed this development can be integrated and he cited the Blaskets Interpretive Centre as a good example of what can be achieved. He believed this development could be integrated without damaging the environment and he would like to see the unanimous support of all members for this proposal.

Cllr. D. Healy-Rae said that as an employer he believed that this kind of opportunity to employ local people would last longer than most jobs. He would prefer to see this development proceed rather than have no development at this location.

Cllr. J. O'Connor said that everyone watches Kerry from a sporting point of view and he fully supported this submission. Páidí Ó Shea is well known in sporting circles.

Cllr. M. Cahill said that this is an excellent proposal and he also visited the site. There is an existing settlement one third of a mile from the sea at this location. This development would be very beneficial for the county as it needs a Sports Interpretive Centre.

Mayor T. Fleming said that it would be a dereliction of member's duty not to support this submission.

Cllr. R. Beasley supported the sentiments expressed by Cllr. O'Shea and Cllr. Gleeson. This proposed development is very important from a tourism and employment point of view and it is important that this development would be allowed to proceed.

Cllr. A. McEllistrim said that this proposal is very important and presents an opportunity that should not be let go. This will create jobs for the area and attract additional tourists to it. She supported the submission.

Cllr. B. Cronin said that he had visited this site and it is an exciting tourism proposal. He believed that a proper application for planning permission would be lodged for this development.

Cllr. B. O'Connell said that this submission has the unanimous support of the members of Kerry County Council.

Mr. T. Sheehy stated that members have indicated that no Local Area Plan was prepared for Ard Bhóthair and members voted not to re-open the debate on Local Area Plans. He recommended that this land would be zoned Rural General and he added that land has not been zoned residential outside the Local Area Plans other than in the Listowel environs. He presumed that the proposed residential development would be for permanent residential purposes and that it would remain in the ownership of the developers and not be disposed of.

On the PROPOSAL of Cllr. M. O'Shea, SECONDED by Cllr. M. Gleeson, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves to zone the lands the subject of Submission No. 94 Residential/Opportunity Site.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, P. Connor-Scarteen, Cronin, Ferris, T. Fitzgerald, Foley, Gleeson, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, McCarthy, McEllistrim, Miller, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea, Purtill, Sheahan, Fleming **(25)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. S. Fitzgerald, MacGearailt **(2)**

The Mayor declared the resolution carried.

Submission No. 99 – Fionán McCarthy on behalf of Annascaul Kerry Wind Development Group.

Cllr. M. O'Shea said that this submission was previously dealt with but he wanted to make a few small changes. He wanted to use the word 'preferred' in relation to this submission.

Mr. T. Sheehy advised Cllr. O'Shea that he would need a special resolution of Council before he could do this as a previous resolution had been taken on it.

Mr. G. O'Brien advised Cllr. O'Shea that in accordance with Standing Orders "*A Motion to revoke or amend a resolution of the Council can only be made on notice inserted in the Agenda, and such notice shall specify the resolution to be*

revoked or amended and furnish the terms of the motion to be made; but no such motion shall be allowed to appear on the Agenda to revoke or amend any resolution of Council within six months of the date of the adoption of such resolution except with the written assent of not less than 5 members of the Council. A resolution may not be revoked at the meeting at which it has been adopted."

Mr. T. Sheehy said that he understood that this landowner wanted an extension of the land zoned.

Cllr. O'Shea said that the landowner wanted an extension to the side of the land and he wanted the category changed from 'open to consideration' to 'preferred'.

Mr. T. Sheehy advised Cllr. O'Shea that he could revert to the zoning of the additional piece of land when consideration of the Manager's Report had concluded.

Cllr. M. O'Shea asked if he wanted to get the zoning changed from 'open to consideration' to 'preferred' could he submit a resolution to do so.

Mr. G. O'Brien advised Cllr. O'Shea that if 5 members agreed they could submit a notice of their intention to move this motion and the item must appear on an agenda.

Mr. T. Curran, County Manager, said that Cllr. O'Shea was seeking to vary the County Development Plan. That is a matter for the County Manager to decide as he is the only person who can initiate this process.

Mr. T. Sheehy advised Cllr. O'Shea to leave this zoning as 'open to consideration'. By designating it as a "preferred area" it is giving the landowner an expectation and could cause difficulties if he was refused permission on environmental grounds. 'Open to consideration' is the correct designation for this land and the issue of an extension of the zoning could be considered when the Manager's Report has been completed.

Cllr. T. Fitzgerald PROPOSED that members should proceed with consideration of this submission.

Mr. G. O'Brien advised members that this submission was already dealt with and it is not on the Agenda for consideration.

Mr. J. D. Flynn, Director of Corporate Services, informed the meeting that there must an order of business.

Submission No. 151 – HL Homes Ltd., Abbeyfeale

Mr. T. Sheehy informed members that this submission relates to the zoning of 10 acres of land at Shanbally, Abbeyfeale. He indicated the land the subject of this submission on the map and read the Manager's Response as follows: "It is considered by virtue of their distance from the town centre, the desire to limit ribbon development, the need to provide a compact settlement and the advise of Limerick County Council that the zoning of these lands is inappropriate" and the Manager recommends that no amendment to the draft plan be considered. This landowner was already granted permission for 8 houses in line with the Rural Settlement Policy and there is no justification for an intensification of use of these lands.

Cllr. T. Buckley PROPOSED that the lands the subject of this submission be zoned for residential use and said that permission was already granted for eight houses but the landowner is anxious that the remaining land would be zoned.

Cllr. D. Kiely SECONDED this proposal.

Cllr. D. Healy-Rae also supported the proposal.

Cllr. T. Fleming said that this land is adjacent to Abbeyfeale.

Mr. Sheehy said that this land is almost one mile from the centre of Abbeyfeale. The landowner was already accommodated in so far as is possible and he was granted permission for a cluster of houses. He added that he could not see the justification for the zoning of this land.

Mr. P. Stack, S.E., Planning, said that this is the worst proposal that he had encountered. This land is elevated and is not serviced by the sewer. The land is located on the bend up a narrow boreen.

Cllr. M. Healy-Rae supported the submission.

Cllr. T. O'Brien asked if there could be implications for the Council if they zoned this land.

Mr. M. McMahon, Director of Planning, said that this is a wholly inappropriate proposal for residential zoning. It is likely that any application for planning permission on these lands would be refused and the zoning of this land could leave the planning authority open to a compensation claim.

Cllr. J. Brassil said that this landowner was previously granted permission for a cluster of eight houses. This is appropriate and no additional lands should be zoned.

Cllr. T Fleming said that consideration should be given to some form of low density housing at this location as it is near the town and the Council should be pro-development.

Cllr. D. Healy-Rae supported the sentiments expressed by the Mayor and said that this land is close to the edge of Abbeyfeale and the Kerry side of Abbeyfeale must be supported.

Cllr. P. Connor-Scarteen also supported the zoning of this land.

Mr. T. Curran, County Manager, said that this is an isolated portion of land and it is very disingenuous of councillors to propose this zoning. He reiterated that if the land is zoned and planning permission is subsequently refused it could leave the Council open to a compensation claim.

Cllr. T. Ferris requested clarification on the Planning Department's position with regard to this zoning as she understood they were stating that it was not appropriate.

In response Mr. P. Stack said that this land is absolutely unsuitable for the zoning proposed.

Mr. T. Curran, County Manager, said that if members proceed with this zoning they would bring the creditability of planning into question.

Cllr. M. Healy-Rae said that the public were invited to make submissions and this landowner did that. It is now a matter for the members to decide on the submission.

Mr. T. Curran said that members must consider the proper planning and sustainable development of the area. If the proposal is for any other reason members should reconsider their position. In making this proposal members had not put forward any justification in relation to the proper planning and sustainable development of this area. They picked an isolated site outside the town boundary where a cluster development has already been permitted but the landowner is now seeking the zoning of additional land and that is not proper planning and sustainable development. He asked members why they were proposing the zoning of this portion of land over any other portion of land.

Cllr. R. Beasley PROPOSED an increase in the number of houses to be permitted to 12.

Mr. T. Sheehy advised members that this was not possible.

On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. D. Kiely, this Council having considered the County Manager's Report and Recommendations on

submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 151 be zoned residential.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Beasley, Buckley, P. Connor-Scarteen, D. Healy-Rae, M. Healy-Rae, Kiely, Purtill, Fleming **(8)**

Against: Cllrs. Brassil, Ferris, T. Fitzgerald, Gleeson, Miller, O'Brien, O'Connell, O'Connor, O'Donoghue **(9)**

Not Voting: None **(0)**

Absent: Cllrs. Cahill, Cronin, S. Fitzgerald, Foley, Leahy, MacGearailt, McCarthy, McEllistrim, O'Shea, Sheahan **(10)**

The Mayor declared the proposal defeated.

Cllr. D. Healy-Rae referred to Submission No. 140 and said that this landowner had a proposal to zone his land Rural General, as he wants a house for his son.

Mr. T. Sheehy advised Cllr. Healy-Rae that this submission was already dealt with.

Submission No. 153 – PLM Architecture on behalf of Steven Lovett, Patrick Healy, The Downing Family and Mark Dignam, Kenmare.

Mr. T. Sheehy advised members that this submission relates to the zoning of 11.5 hectares of land at Killaha, Kenmare, Co. Kerry. The submission seeks to have the zoning changed from Prime Special Amenity – A3 to Secondary Special Amenity – A2. The land is located on the south side of Kenmare Bay and approximately 3 Km from Kenmare. These lands are very sensitive and he indicated the lands on the map for members. He added that there is no justification for the zoning of this land and some of these landowners have land elsewhere.

Cllr. M. Healy-Rae PROPOSED that the submission be adopted on good planning grounds. All these landowners sought a number of family homes using shared entrances. This area is screened from the Bay and because of the shared entrances he believed members should support it.

Mayor T. Fleming SECONDED this proposal and said that these are local people and the family members have lived here for generations.

Mr. T. Sheehy said that all these families had not lived at this location for generations. Some of these people bought the land 18 months ago and some have alternative land elsewhere where planning permission was granted. Some of the landowners do not have children and the proposed designation is misleading the Council.

Mayor T. Fleming said that some of these landowners are in this area for generations.

Mr. T. Sheehy said that this submission did not indicate where the houses would be located on the 20 acres. They can apply for planning permission for family members and if the houses can be integrated, they have no alternative sites and they satisfy the Rural Settlement Policy they could be considered. He urged members to be cautious in dealing with this proposal and said that people should deal with the Development Plan as it is structured.

Cllr. P. Connor-Scarteen supported the submission and said that there are a number of families involved. They are only seeking 1 house each and it is not a commercial development. They will be sharing 1 entrance and the development will be well screened.

Cllr. R. Beasely asked how much of this land was purchased in the past 18 months.

In response Mr. T. Sheehy said that he was not aware how much was acquired recently. He added that another submission was also received relating to the lands, which he indicated, on the map. He carried out a percolation test and from an initial investigation he was satisfied that this landowner could be accommodated. This option is open to all these landowners.

Cllr. T. Ferris asked if family members of landowners could be catered for.

Cllr. D. Healy-Rae acknowledged that many areas on this road should be retained as Prime Special Amenity but said that there is no reason why these few houses could not be built for local people.

On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. T. Fleming, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 153 be zoned Secondary Special Amenity.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Buckley, Cahill, P. Connor-Scarteen, D. Healy-Rae, M. Healy-Rae, Kiely, Miller, O'Donoghue, Purtill, Sheahan, Fleming **(11)**

Against: Cllrs. Beasley, Brassil, Cronin, Ferris, Gleeson, Leahy, O'Brien, O'Connell **(8)**

Not Voting: None **(0)**

Absent: Cllrs. S. Fitzgerald, T. Fitzgerald, Foley, MacGearailt, McCarthy, McEllistrim, O'Connor, O'Shea **(8)**

The Mayor declared the resolution carried.

Submission No. 157 Michael Flahive and Eilish Foley, Listowel.

Mr. T. Sheehy informed the meeting that these landowners are finalising a planning application for a Wildlife and Heritage Trail with an Amenity Building at Bromore West, Ballybunion. Projects such as this should be encouraged and supported in the new County Development Plan as they would be an addition to Ballybunion and Kerry's Tourism portfolio and help iron out seasonality and weather issues. It is in a Prime Special Amenity area and this should not be a barrier to its development. A high quality natural environment is central to this project and it is in their interest to respect and protect it and at the same time promoting respect of the visitors. The Manager's Response to this submission is as follows: "While it is noted that a planning application is being finalised, there is no map of the site in question nor are any proposed development details enclosed. This application will be assessed on its merits in due course. However, no amendment to the policies re Prime Special Amenity areas is recommended." He added that he had met Mr. Flahive on site and he was convinced that this was a very good project and if necessary the Planning Department would be prepared to initiate a material contravention to facilitate this development.

Cllr. D. Kiely said that as the Planning Department would be prepared to initiate the material contravention procedure for this application he **PROPOSED** that the recommendation in the Manager's Report be adopted.

Cllr. T. O'Brien **SECONDED** this proposal.

Cllr. T. Buckley said that there were ten requests for further information on this application for planning permission and a number of these had cost a few thousand euro.

Cllr. R. Beasley welcomed the Manager's Report and the proposed development and he called on the Council to keep the costs of the application to a minimum.

Cllr. P. Leahy fully supported the proposed development and he added that Mr. P. Stack visited the site and he would like to hear his views on it. Costs are a big

factor for the landowner and he called on the Council to keep costs to a minimum.

In response Mr. P. Stack said he visited this site and he would be positive towards it and he believed that a material contravention procedure would be the correct way forward.

Cllr. R. Beasley said that there is never a lot of traffic on that particular road.

Mr. P. Stack undertook to review the reasons for requests for further information in relation to this application.

On the PROPOSAL of Cllr. D. Kiely, SECONDED by Cllr. T. O'Brien, it was unanimously agreed to adopt the recommendations in the Manager's Report in relation to this submission.

Submission No.150 – Peter Browne, Castleisland Enterprise Board

Mr. T. Sheehy said that this submission seeks to have a map amended to show the Hub including Castleisland. As a result, Map 3.2 in the County Development Plan should be amended to include Castleisland. Other issues raised relate to Castleisland.

Cllr. B. O'Connell PROPOSED that the Hub be extended to include Castleisland town.

Cllr. B. Cronin SECONDED this proposal and said that this was a very worthwhile submission, which deserves full recognition. He welcomed the other issues raised in the submission and said that these can be addressed in the review of the Castleisland Local Area Plan.

Cllr. D. Healy-Rae supported the submission.

Mayor T. Fleming also supported the submission and said that it was very comprehensive and shows the potential of Castleisland town.

Cllr. A. McEllistrim also supported the submission.

Cllr. C. Miller supported the excellent proposal and submission made by this very good committee.

On the PROPOSAL of Cllr. B. O'Connell SECONDED by Cllr. B. Cronin this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that in respect of Submission No. 150 that the members accept the

Manager's Report with the exception of extending the Hub area on Map 3.2 to include Castleisland.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Brassil, Buckley, Cronin, Gleeson, D. Healy-Rae, M. Healy-Rae, Leahy, McEllistrim, Miller, O'Brien, O'Shea, Purtill, Sheahan, T. Fleming
(14)

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. Beasley, Cahill, P. Connor-Scarteen, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McCarthy, O'Connell, O'Connor, O'Donoghue **(13)**

The Mayor declared the resolution carried.

Submission No. 43 – Christina Walsh, Killorglin

Mr. T. Sheehy said that this submission relates to protected structures and it had already been dealt with.

Submission No. 48 – Michael O'Sullivan, An Daingean

**Submission No. 61 – Michelle Bennett, RPS Planning & Engineering Ltd.
Cork**

Submission No. 168 Celestie Slye

Mr. T. Sheehy said that these 3 submissions relate to the Farmer's House and they have already been voted on at which time it was agreed that this property would not be listed as a Protected Structure.

On the PROPOSAL of Cllr. T. O'Brien, SECONDED by Cllr. B. Cronin, it was unanimously agreed that the recommendation of the previous vote would be accepted.

Submission No. 50 – Eleanor and Denis Enright, Listowel.

Mr. T. Sheehy informed members that this submission requests that 18.9 hectares or 25 acres of land be zoned at Dromin, Listowel, for development purposes. Lands directly above and below them have been rezoned and the services are available. The Manager's response is as follows: "In view of the quantity of the existing and proposed zoning in the environs of Listowel the capacity of the sewerage network, the need to limit the expansion of the town and the over zoning for residential land within the Listowel urban boundary it is

considered inappropriate to zone these lands". In conclusion, Mr. Sheehy said that in view of the fact that the lands the subject of Submission No. 42 were zoned residential he would not comment any further on this submission.

Cllr. T. Buckley PROPOSED that this submission be adopted. This land is on the sewer and there is development all round it. There is a strong case for the zoning of this land and there will not be a difficulty with the access.

Cllr. P. Leahy SECONDED this proposal and said that the land adjacent to this land is zoned and there is development at all sides. There are two entrances to this site.

Cllr. L. Purtill also supported this proposal.

On the PROPOSAL of Cllr T. Buckley seconded by Cllr. P. Leahy this Council having considered the County Manager's Report and Recommendations on submissions to the Draft County Development Plan 2009 – 2015 hereby resolves that the land the subject of Submission No. 50 be zoned residential.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Brassil, Buckley, Cronin, Gleeson, D. Healy-Rae, Leahy, Miller, O'Brien, O'Shea, Purtill, Sheahan, Fleming **(12)**

Against: None: **(0)**

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

Absent: Cllrs. Beasley, Cahill, P. Connor-Scarteen, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, M. Healy-Rae, Kiely, MacGearailt, McCarthy, McEllistrim, O'Connell, O'Connor, O'Donoghue **(15)**.

The Mayor declared the resolution carried.

Submission No. 56 John and Mary Fuller, (Address withheld for data protection purposes)

Mr. T. Sheehy informed the meeting that following the preparation of the Manager's Report he had reconsidered this submission and he felt that the zoning of this land as Secondary Special Amenity is warranted.

Cllr. M. Gleeson PROPOSED that the land the subject to Submission No. 56 be zoned Secondary Special Amenity.

Cllr. B. Cronin SECONDED this proposal.

Cllr C Miller also supported the proposal.

On the PROPOSAL of Cllr. M. Gleeson SECONDED by Cllr B. Cronin this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 56 be zoned Secondary Special Amenity.

A vote was taken on this proposal which resulted as follows:

For: Cllr. Beasley, Brassil, Cahill, P. Connor-Scarteen, Cronin, Gleeson, D Healy-Rae, M. Healy-Rae, Leahy, Miller, O'Shea, Purtill, Sheahan, Fleming **(14)**.

Against: None: **(0)**

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

Absent: Cllr. Buckley, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McCarthy, McEllistrim, O'Brien, O'Connell, O'Connor, O'Donoghue **(13)**.

The Mayor declared the resolution carried.

Submission No. 70	Peter McLaughlin on behalf of Dooks Golf Club
Submission No. 105	Brian Meehan and Associates on behalf of Ceann Sibéal Golf Club
Submission No. 124	Niall Fitzsimons and Co. on behalf of Kieran Cliffe

Mr. T. Sheehy informed the meeting that Submission Nos. 70, 105 and 124 would be taken together as they relate to the same issue that of holiday homes in relation to Golf Clubs.

Mr. T. Curran, Co. Manager declared that in accordance with Section 177 of the Local Government Act 2001 he was a member of Ceann Sibéal Golf Club and had voting rights and for this reason he would withdraw from the meeting while this submission was being considered.

Mr. Curran then left the meeting.

Mr. T. Sheehy said that this matter was discussed at length. The Manager's Recommendation reads as follows:

"It is recommended that the following text be inserted at the end of Paragraph 3.10.3:

In relation to Golf Clubs it is considered, subject to the normal planning management standards, that limited residential development will be considered on lands within the boundary of the club and in the ownership of the club in

November 2008. The level of holiday home development will be commensurate with the cost of the proposed improvement of the facilities and shall be contingent on such works being carried out.

For privately owned clubs not fully in the ownership of the members, any development shall be managed as part of the facility and remain as an integral part of the development. As the purpose of the policy is to facilitate the ongoing development and viability of the club, it is considered reasonable that assets accruing from development should remain tied to the club. This is not a difficulty in relation to members wholly owned clubs. In relation to private clubs it is considered that the homes should be providing an ongoing source of revenue to the facility and be managed as part of the facility”.

Mr. Sheehy said that many Golf Clubs are applying for planning permission for holiday homes to ensure their viability. There is also a difference between Golf Clubs in the ownership of the members and privately owned Golf Clubs. Golf Clubs owned by members have the profits accruing to the Club.

Cllr. M Cahill PROPOSED the amendment as outlined by Mr. Sheehy.

Cllr. M. Gleeson SECONDED this proposal.

On the PROPOSAL of Cllr. M. Cahill SECONDED by Cllr. M. Gleeson this Council having considered the Manager’s Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves in respect of Submissions 70, 105 and 124 to add the following text to paragraph 3.10.3: “The provision of limited holiday home development maybe considered where it is integrated into or ancillary to an existing or proposed hotel or golf club. In the case of golf clubs this provision shall only apply to clubs in the full ownership of the members and for lands in their ownership in November 2008 to fund infrastructural investment in the club”.

A vote was taken on this proposal which resulted as follows:

For: Cllrs. Brassil, Cahill, P Connor-Scarteen, Cronin, Gleeson, D. Healy-Rae, M. Healy-Rae, Leahy, Miller, O’Shea, Sheahan, Fleming **(12)**.

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

Not Voting: Cllr. O’Donoghue **(1)**.

Absent: Cllrs. Beasley, Buckley, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McCarthy, McEllistrim, O’Brien, O’Connell, O’Connor, Purtill **(14)**.

The Mayor declared the resolution carried.

Submission No. 83 Michael and Annemarie Teahan Kilgarvan.

Mr. T. Sheehy informed the meeting that this submission relates to the zoning of land for a wind farm development and he would be agreeable that the lands be zoned 'open to consideration'.

Cllr. M. Gleeson PROPOSED that these lands be zoned 'open to consideration' for wind farm development.

Cllr. B. Cronin SECONDED this proposal.

On the PROPOSAL of Cllr. M. Gleeson SECONDED by Cllr. B. Cronin this Council having considered the Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves having regard to Submission No. 83 to zone these lands 'open for consideration for wind farm development'

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Brassil, Cahill, P Connor-Scarteen, Cronin, Gleeson, D. Healy-Rae, M. Healy-Rae, Leahy, McCarthy, Miller, O'Donoghue, O'Shea, Sheahan, Fleming **(14)**.

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

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

Absent: Cllr. Beasley, Buckley, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, O'Connor, Purtill **(13)**.

The Mayor declared the resolution carried.

Submission No. 86 John Canty, (Address withheld for data protection purposes)

Mr. T. Sheehy said that this submission requests that lands located at Dromulton, Scartaglin, currently zoned Secondary Special Amenity in the Draft County Development Plan be zoned Rural General. This land comprises 16.55 hectares or 40 acres. Even if the lands are zoned planning permission will not be granted. He added that this land should remain Secondary Special Amenity.

Cllr. T. Fleming said that the Brown Flesk Valley justifies the existing zoning at the lower level of these lands. This land is located adjacent to the county road and one family member has encountered extreme difficulty in getting planning permission for a family home. The zoning of Secondary Special Amenity is affecting this planning application. This is a sparsely populated area and there is

no pressure from high-density housing. There are no wholesale planning applications in this area. The applicant is working on the land and what is happening is unacceptable. He PROPOSED that this land be zoned Rural General.

Cllr. D. Healy-Rae SECONDED this proposal and said that Scartaglin is all heights and hollows. There is very little screening but where this landowner wants to build a house can be screened. He is the salt of the earth young fellow and there is no outside pressure for land and he does not intend to sell a site. The Secondary Special Amenity zoning is causing a problem for this planning applicant.

Cllr. B. Cronin said this is not a wide spread zoning proposal. It is simply requesting that the land be rezoned from Secondary Special Amenity to Rural General in a farming area and for this reason he was supporting the proposal.

On the PROPOSAL of Cllr. T. Fleming SECONDED by Cllr. D. Healy-Rae this Council having considered the Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission 86 be zoned Rural General.

A vote was taken on this proposal and resulted as follows;

For: Cllr. Brassil, P Connor-Scarteen, Cronin, D. Healy-Rae, M. Healy-Rae, Leahy, McCarthy, Miller, O'Donoghue, O'Shea, Sheahan, Fleming **(12)**.

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

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

Absent: Cllrs. Beasley, Buckley, Cahill, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Gleeson, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, O'Connor, Purtill **(15)**.

The Mayor declared the resolution carried.

Submission No. 93 Margaret O'Carroll, U.S.A

Mr. T. Sheehy informed members that this submission related to protected structures and was previously dealt with.

Submission No. 97 Michael Rowan, (Address withheld for data protection purposes)

Mr. T. Sheehy said that he had discussed this submission with members and he understood that there was agreement that the zoning would remain as in the previous County Development Plan.

Cllr. M. Cahill PROPOSED that the zoning maps, the subject of Submission No. 97 should remain as per the Draft County Development Plan.

Cllr. C. Miller SECONDED this proposal.

On the PROPOSAL of Cllr. M. Cahill SECONDED by Cllr. C. Miller this Council having considered the Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the zoning maps the subject of Submission No. 97 shall remain as per the Draft County Development Plan.

A vote was taken on this and resulted as follows:

For: Cllrs. Brassil, Cahill, P. Connor-Scarteen, Cronin, Gleeson, D. Healy- Rae, M. Healy-Rae, Leahy, McCarthy, Miller, O'Donoghue, O'Shea, Sheahan, Fleming **(14)**.

Against None: **(0)**.

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

Absent: Cllrs. Beasley, Buckley, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, O'Connor, Purtill **(13)**.

The Mayor declared the resolution carried.

Submission No. 122 Diarmuid Mangan, B.E., Killarney on behalf of the landowners.

Mr. T. Sheehy said that this submission relates to the zoning of 5 acres of land at Quaybaun, Glenbeigh. The owner wishes to have the land zoned Rural General as opposed to its current zoning of Secondary Special Amenity. He indicated the lands the subject of this submission on the map. He informed members that after the Red Fox Inn there is a crossroads with a turn off to Caragh Lake. When this site is viewed from Caragh Lake it is at a high point and it was his opinion that this land should remain Secondary Special Amenity.

Cllr. P. McCarthy said that he was asked to propose that the submission as presented be adopted and he PROPOSED it.

Cllr. M. Cahill SECONDED this proposal.

Mr. T. Sheehy asked on what planning grounds was this proposal being made.

In response Cllr. M. Cahill said that this submission was discussed at area level and he understood that agreement could be reached and that there would be no problem with this proposal. There are houses on the Caragh Bridge side and a lot of development above the road, which is more elevated. This is located close to the Bog Village and there is no reason why this land would not be rezoned from Secondary Special Amenity to Rural General.

On the PROPOSAL of Cllr. P. McCarthy SECONDED by Cllr. M. Cahill this Council having considered the Co. Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 122 be zoned Rural General.

A vote was taken on this proposal, which resulted as follows:

For: Cllr. Cahill, P. Connor-Scarteen, D. Healy-Rae, M. Healy-Rae, Leahy, McCarthy, Miller, O'Donoghue, O'Shea, Sheahan, Fleming **(11)**.

Against: Cllr. Brassil, Cronin, Gleeson **(3)**.

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

Absent: Cllrs. Beasley, Buckley, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, O'Connor, Purtill **(13)**.

The Mayor declared the resolution carried.

Submission No. 123 Diarmuid Mangan B.E. Killarney on behalf of the landowners

Cllr. P. Connor-Scarteen declared that he is related to the person who made this submission and in accordance with Section 177 of the Local Government Act 2001 he would leave the meeting while this submission was being considered.

Cllr. P. Connor-Scarteen then left the meeting.

Mr. T. Sheehy informed members that Diarmuid Mangan B.E is acting on behalf of the landowners and the submission relates to 2.677 acres of land at Commaun, Caragh Lake. The owners wish to have the land returned to the zoning as shown in the 1996 County Development Plan i.e. returned to Secondary Special Amenity zoning. Mr. Sheehy added that this land is located between the road and the lake and is a very sensitive portion of land. He indicated the land on the map for members and said that it is zoned Prime Special Amenity and this zoning is justified. The rezoning of this land would set a dangerous precedent and he urged members not to proceed with this proposal.

Cllr. P. McCarthy said that there are two dwellings on this property and they are well screened. It is intended to demolish these houses and to build a new house.

In response Mr. T. Sheehy said that the houses on this property are derelict and have not been lived in for years.

Cllr. M. Cahill said that this area is heavily forested and even if the derelict houses are demolished he believed that a house could be accommodated on these lands. He agreed that this is a very scenic area but said that in 2003 an error was made that these lands should have been left as per the 1996 zoning.

Cllr. J. O'Connor declared that in accordance with Section 177 of the Local Government Act 2001 he was related to the person who made this submission and he would leave the meeting while it was being considered.

Cllr. O'Connor then left the meeting.

Cllr. M. Cahill said that he supported this submission.

Cllr. B. Cronin asked if the members read the Manager's Report. The report states that this is one of the most scenic areas and he asked were councillors ignoring the Senior Planner's advice. It beggars belief that in the capital of tourism, in an area of Prime Special Amenity, councillors irrespective of the impact, made this proposal. He acknowledged the right of landowners to make a submission but said that members should not throw away Prime Special Amenity status.

Cllr. M. Gleeson said that overall the economic reality is very true and that tourism is a lifeline in Kerry. Members of the public ask why councillors are desecrating areas by zoning them. He added that this is one of the most important tourist areas in Kerry and some people would say that there is already excess development in the area. He said that members have a moral obligation to safeguard this pristine beauty.

Cllr. D. Healy-Rae said that members were informed that there were houses on this site in the past and people lived there, so why should people not be permitted to live there now. Houses are not a blight on the area. The Rural Dwellers Association Report indicates that in the past 68% of people lived in rural areas while this has now reduced to 36%.

Mr. T. Sheehy said that this site looks out on to Caragh Lake and there are no houses all the way along. It is impossible to screen a house from the road. The derelict houses on the property are very low and a modern house would be far in excess of the height of the buildings already there. This would be the only house on that side of the road and it is a really bad proposal.

Cllr. P. O'Donoghue asked exactly where this land was located.

Mr. T. Sheehy indicated the land the subject to this submission on the map.

Cllr. P. O'Donoghue pointed out that there has been a lot of planning refusals in that area.

Mr. T. Sheehy confirmed that there have been a number of refusals in that general area.

Cllr. P. O'Donoghue said that an applicant on the other side of the road was refused planning permission and he felt that he was hard done by.

On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. M. Cahill this Council having considered the Co. Manager's Report and Recommendations on submission to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the lands the subject of Submission No. 123 be zoned Secondary Special Amenity.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Cahill, D. Healy-Rae, McCarthy, Sheahan **(4)**.

Against: Cllrs. Cronin, Gleeson, Miller, O'Donoghue, Fleming **(5)**.

Not Voting: Cllr. M. Healy-Rae, Leahy, O'Shea **(3)**.

Absent: Cllrs. Beasley, Brassil, Buckley, P. Connor-Scarteen, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, O'Connor, Purtill **(15)**.

The Mayor declared the resolution defeated.

Cllr. P. Connor-Scarteen then returned to the meeting.

Submission No. 139 John Hegarty, Killarney

Cllr. C. Miller asked what the position was in relation to this submission which was also considered in the Killarney Local Area Plan.

In response Mr. T. Sheehy said that the Killarney Environs Plan was made and members had voted not to reopen it, therefore this submission could not be considered. This submission was included but then it was removed because of concerns regarding flooding. The Local Area Plans must take the entirety of the settlements into account. A vote was already taken not to zone this land and not to reopen the Local Area Plans.

Cllr. C. Miller asked if members could legally consider this submission.

Mr. Sheehy said that they could not.

Cllr. D. Healy-Rae said that he supported this submission when the Killarney Environs Plan was being considered. However, there was a problem with flooding and members were told that it could be revisited when the Hydrologist Report was carried out and the County Development Plan was being prepared. This landowner is looking for a slight extension of a zoning in the Muckcross road. The hotel is to the east and this would not be obtrusive. He believed that it is legal to revisit this zoning at this time. When the Killarney Environs Local Area Plan was being considered members were advised that this submission could be dealt with in the context of the County Development Plan. He PROPOSED that this submission be adopted.

Cllr. T. Fleming SECONDED this proposal and said that the applicant got a Professor in UCC to carry out a study of these lands. He has indicated that some development can be accommodated on parts of these lands.

Cllr. C. Miller said that he would support the zoning of the smaller portion of land up to the main road.

Mr. M. McMahon, Director of Planning advised members that this site was considered as part of the Killarney Local Area Plan and it was zoned amenity. There is a separate procedure for the reviewing of Local Area Plans and members could not legally deal with this submission at that time.

Mr. T. Sheehy said he had explained this to Cllr. Healy-Rae and he did not remember saying that this submission could be considered in the context of the County Development Plan and there is no record of this. When this submission was considered it was decided that this land was sensitive and the submission was not adopted. Members had already voted not to reopen the Local Area Plans.

Cllr. D. Healy-Rae said that he was informed that this submission could be revisited in the County Development Plan review.

Cllr. J. O'Connor then returned to the meeting.

Cllr. D. Healy-Rae said that this land is owned by Mr. Hegarty's sister in-law and Denis's wife must be sorted out of it.

Cllr. M. Gleeson called for the legality of this proposal to be ruled upon.

Cllr. B. Cronin said that members had voted not to revisit the Local Area Plans.

Mr. McMahon said that the only way this submission could be dealt with is in the review of the Killarney Environs Local Area Plan.

Cllr. D. Healy-Rae asked if there was any legal way in which this could be revisited before the review of the Killarney Environs Local Area Plan.

In response Mr. T. Sheehy said that the only way it could be dealt with is as a variation to the County Development Plan in which case members of the public would be invited to make submissions and members would then have to vote on it.

Mr. M. McMahon advised members that the entire suite of Local Area Plans will be up for review in due course.

Cllr. C. Miller said that he understood that it was a matter for the County Manager to initiate the material contravention procedure.

Submission No. 154 PLM Architecture, Kenmare

Mr. T. Sheehy informed members that this submission was already dealt with.

Submission No. 164 James and Helen Sheehan, Killarney

Mr. T. Sheehy informed the meeting that this submission relates to the zoning of land at Coolcorcoran and Coolgarrive for residential development and this is a matter for the review of the Killarney Environs Local Area Plan and cannot be considered in isolation.

On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. J. Sheahan it was unanimously agreed that the recommendation in the Manager's Report on this submission be adopted.

Submission No. 169 Mrs. Eileen Mangan, Ballybunion

Mr. T. Sheehy informed the meeting that this land is located just south of the town of Ballybunion and adjoining the world renowned Ballybunion Golf Course. Ballybunion is situated on the north-western coast of Kerry, south of the Shannon Estuary and north of the Cashen River Estuary. It is situated approximately 16 kilometres northwest of Listowel and 28 kilometres north of Tralee. Killarney, Tarbert, Foynes Port and Limerick City are all within easy commuting distance.

This land is located beside Ballybunion Golf Course an area already developed as a tourist destination; it is most suitable for the provision of all weather facilities. The land is located close to a good road network to enable safe and easy access to any proposed development. The total holding is in excess of 15 hectares and

can accommodate a sizable development. Mr. Sheehy concluded by saying that there is no policy in the Draft County Development Plan that precludes this kind of development.

On the PROPOSAL of Cllr. P. O'Donoghue **SECONDED** by Cllr. M. O'Shea it was unanimously agreed that the recommendation in the Manager's Report in relation to this submission be adopted.

Submission No. 173 Ian Guiney, Valentia Island

Mr. T. Sheehy informed the meeting that having considered this submission it is proposed that the following objective be included in the Draft Plan: "It is an objective of the Council to support the promotion of the Tetra Pod Trackway for UNESCO World Heritage Site Designation.

Cllr. P. O'Donoghue **PROPOSED** that this objective be included in the Draft Plan.

Cllr. C. Miller **SECONDED** this proposal.

On the PROPOSAL of Cllr. P. O'Donoghue **SECONDED** by Cllr. C. Miller this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that in respect of Submission No. 173 it is an objective of the Council to support the promotion of the Tetra Pod Trackway for UNESCO World Heritage Site Designation.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Cahill, P. Connor-Scarteen, D. Healy-Rae, M. Healy-Rae, Leahy, Miller, O'Connor, O'Donoghue, O'Shea, Sheahan, Fleming **(11)**.

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

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

Absent: Cllrs. Beasley, Brassil, Buckley, Cronin, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Gleeson, Kiely, MacGearailt, McCarthy, McEllistrim, O'Brien, O'Connell, Purtill **(16)**.

The Mayor declared the resolution carried.

Submission No. 133 Roger Garland

Mr. T. Sheehy referred to this submission which was made by Roger Garland and he clarified that Mr. Garland made this submission on behalf of Keep Ireland Open. He wanted to clarify that the following objective should be included in the

Draft Plan:" It is an objective of the Council that site assessment tests accompanying planning applications would be completed by members of the approved assessors' panel." This objective is to be inserted in the Development Control Chapter of the County Development Plan.

Cllr. T. Fleming PROPOSED that this objective be included in the Draft Plan.

Cllr. C. Miller SECONDED this proposal.

On the PROPOSAL of Cllr. T. Fleming SECONDED by Cllr. C. Miller this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that 'it is an objective of the Council that site assessment tests accompanying planning applications would be completed by a member of the approved assessors panel' and this objective is to be inserted in the Development Control Chapter 13 of the County Development Plan.

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Cahill, P. Connor-Scarteen, D Healy-Rae, M. Healy-Rae, Leahy, McCarthy, Miller, O'Connor, O'Donoghue, O'Shea, Sheahan, Fleming **(12)**.

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

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

Absent: Cllrs. Beasley, Brassil, Buckley, Cronin, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Gleeson, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, Purtill **(15)**.

The Mayor declared the resolution carried.

Submission No. 99 West Kerry Wind Development Group

Mr. T. Sheehy said that Cllr. O'Shea wished to make a proposal regarding the West Kerry Wind Development Group that an area of land, which he indicated, on the map be zoned 'open to consideration'.

Cllr. M. O'Shea PROPOSED that this land be zoned 'open to consideration'.

Cllr. P. O'Donoghue SECONDED this proposal.

On the PROPOSAL of Cllr. M. O'Shea SECONDED by Cllr. P. O'Donoghue, this Council having considered the County Manager's Report and Recommendations on submissions to the Draft Kerry County Development Plan 2009-2015 hereby resolves that the area designated the subject of Submission 99 would be extended in accordance with Map No. 2 submitted and the Prime Special Amenity area within the 'open to consideration' zoning would be amended to Secondary Special Amenity. (Map attached)

A vote was taken on this proposal, which resulted as follows:

For: Cllrs. Cahill, D. Healy-Rae, Leahy, McCarthy, Miller, O'Connor, O'Donoghue, O'Shea, Sheahan, Fleming **(10)**.

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

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

Absent: Cllrs. Beasley, Brassil, Buckley, P. Connor-Scarteen, Cronin, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, Gleeson, M. Healy-Rae, Kiely, MacGearailt, McEllistrim, O'Brien, O'Connell, Purtill **(17)**.

The Mayor declared the resolution carried.

Cllr. J. O'Connor asked, pending the holding of the Joint Meeting with the County Development Board, Oireachtas members etc. on Friday afternoon next could there be a strategy prepared for inclusion in the County Development Plan arising out of this meeting.

In response Mr. M. McMahon said that his Department would have three weeks in which to publish the amendments agreed by members. These would be put on public display for a period of 4 weeks and then within a further 4 weeks a report must be brought back to Council for consideration. A Special Planning Meeting will be held in April to consider the Manager's Report and there is no provision for working any outcome from this meeting into the County Development Plan. Any issues that arise maybe dealt with by way of an amendment to the County Development Plan by the new Council.

The meeting concluded at 5:25pm

Gerard O'Brien
A/SEO Corporate Affairs

Mayor of Kerry