

**Chief Executive's Report on
Submissions Received
For Proposed
Material Alterations**

to the

Proposed Variation No. 3

of the

Listowel Town Development Plan
2009–2015 (as extended)



*Kerry County Council
Planning Policy Unit*

September 2020

1. Variation no.3 to the Listowel Town Development Plan 2009-2015

A Planning Authority may at any time, for reasons stated, decide to make a variation of a Development Plan. The procedure for such a variation is set out in Section 13 of the Planning and Development Act 2000 as amended by Section 10 of the Planning and Development (Amendment) Act 2010.

The Listowel Town Development Plan 2009-2015 was adopted by the former Town Council on the 11th May 2009 and came into effect on the 8th June 2009. The Plan was extended in accordance with Section 11 of the Planning & Development Act 2000 (as inserted by Section 28 of the Electoral, Local Government and Planning and Development Act 2013).

2. Public Consultation

In accordance with Section 13(2) of the Planning and Development Act 2000 (as amended) Notice of the proposed Variation, SEA environmental Report, the Habitats Directive Assessment/ Natura Impact Report and the Strategic Flood Risk Assessment were published in a local newspaper and invited observations and submissions. Copies of the proposed Variation and Environmental Reports were placed on display for public inspection from **31st October to 13th December 2019 (both dates inclusive)**. An open day for members of the public was held in the Listowel Civic Offices on the 21st November 2019.

3. Statutory Bodies

Under Section 13(2) and 20(1) of the Planning and Development Act 2000 (as amended) the Planning Authority is required to consult the prescribed authorities listed under Part 3 Section 13 of the Planning and Development Regulations 2001 (as amended) and those prescribed for SEA under the Planning & Development Regulations 2001, as amended.

4. Submissions Received

There were 63 number of submissions received during the public consultation period relating to the draft proposed Variation no.3.

The Chief Executives Report and Recommendations on Submissions were presented and considered at the County Council Meeting held on the 15th June 2020. The material alterations/amendments approved by the Elected Members went out for public consultation between **Thursday 25th June and Friday 24th July 2020** and were advertised in the Kerry's Eye newspaper on **Thursday 25th June 2020**.

19 no. submissions on the proposed material alterations were received during the consultation period.

5. Environmental Assessments

5.1 Strategic Environment Assessment (SEA)

Further to the SEA of the material alterations of the proposed variation no. 3 to the Listowel Town Development Plan 2009-2015, as detailed in the SEA ER Addendum report; the proposed modifications to the material alterations have been assessed.

On adoption of the proposed variation no. 3, an SEA Statement will be produced which will summarise the SEA of the proposed variation no.3 of the Listowel Town

Development Plan 2009-2015 in accordance with the Planning and Development 2001 Regulations, as amended.

5.2 Habitats Directive Assessment (HDA)

A HDA is an assessment of the potential for impact on Natura 2000 sites which are nature conservation sites of international importance. A Combined HDA was undertaken for the proposed 3rd Variation of the Listowel Town Development Plan 2009-2015 (as extended) and the proposed Listowel Municipal District Local Area Plan 2019-2025. This approach facilitated the assessment of potential cumulative and in combination effects. The HDA reports prepared by the Environmental Assessment Unit are adopted as those of Kerry County Council.

5.2.1 HDA recommendations

The HDA Addendum report dated June 2020 which incorporated an assessment of the proposed material alterations to the MDLAP and 3rd Variation, recommended the following in respect of Material Alteration No 16 to the proposed 3rd Variation:- that that a 15m buffer area be provided within the proposed residential zoning where it adjoins the Lower River Shannon SAC, and the inclusion of the following related objective:-

- It is an objective of the Council to ensure that the 15m buffer area located within R1 New/Proposed Residential zoned lands is maintained as an active or passive open space area incorporated within any proposed residential development on adjoining lands to the north, so as to safeguard the conservation interests of the woodland and its setting.

The CE report on the submissions received for the proposed material alterations to the 3rd Variation to the Listowel Town Development Plan recommends inclusion of the above development objective as a suitable mitigation measure.

5.2.2 HDA Determination

The proposed land use plan, as recommended in the CE Report and incorporating the recommended Material Alterations, in combination with other plans or projects, is not likely to adversely affect the integrity of a European site.

5.2.3 Reasons for Determination

For the most part potential for significant effects and adverse impacts can be ruled out due to the benign nature and limited scale of the proposed amendments from a Habitats Directive Assessment point of view. In relation to Material Alteration Number 16 to Variation Number 3 to the Listowel Town Development Plan 2009-2015 it is considered that the rezoning of these lands is acceptable subject to the recommendations as outlined above. It is considered that these would protect the conservation interests of the Spa Well Ridge Woodland (Bluebell Woods) and ensure that any potential significant and adverse impacts on the Lower River Shannon SAC and other Natura 2000 sites would be avoided, with certainty. This assessment takes into consideration the potential for cumulative and in combination effects.

6. Additions to the text of the Listowel Town Development Plan 2009-2015 and proposed variation no. 3 are in ***bold italics*** with deletions in ~~strikethrough~~.

Written Submission No.1: Office of the Planning Regulator (OPR)

Submission:

The OPR is satisfied that that the material alterations are consistent with national and regional policy and section 28 guidelines.

In relation to Amendment 15 which proposes to re-zone land surrounding Feale View House as R2, the planning authority is advised to modify amendment 15 to provide for an appropriate 15m buffer zone in accordance with the recommendations of the authority's NIR Addendum.

Response;

The NIR associated with the proposed amendments to the Variation No 3 to the Listowel Town Development Plan 2009-2015 does not recommend modifications to proposed amendment No 15. The misunderstanding results from an amendment numbering error on page 16 of the NIR. The buffer zone referred to relates to amendment No. 16 (Zoning of lands as R1 at Golf View) and has been incorporated into the zoning proposal.

As outlined in the NIR, the proposed zoning as outlined in amendment 15 seeks to reflect the existing land use. It is further noted that S14.3 of the plan outlines that within such zonings, development proposals are required to be assessed taking into consideration the potential for impact on sites of nature conservation importance. It is considered that the above is sufficient to ensure that adverse impacts on the Lower River Shannon SAC will be avoided, with certainty. This assessment takes into consideration the potential for cumulative and in combination effects.

Recommendation:

No amendment.

Written Submission No.2: Environmental Protection Agency (EPA)

Submission:

The submission states that Kerry County Council should ensure that the findings and recommendations of the SEA and Habitat Directive Assessments are fully incorporated, as appropriate, into the amended Plan and Variation prior to their adoption.

Response:

The Planning Authority welcomes the submission. The SEA and Habitat Directive Assessments conclude that there are no significant effects on the environment.

Recommendation:

No amendment.

Written Submission No.3: Transport Infrastructure Ireland (TII)

Submission:

The submission relates to proposed material alteration No.14 which seeks to re-zone lands from (P1) Agriculture to (G4) Active Open Space at Ballygrenane.

The submission states that the lands adjoin the N69 where a 50 – 60kph speed limit applies and that there are no pedestrian footpaths or facilities for vulnerable road users along the route to the subject lands. As the section of road concerned is a national secondary road, pending completion of the N69 Listowel Bypass Scheme, access to the lands concerned for vulnerable road users will need to be carefully considered. TII state that safe access for all vulnerable road users should be developed and that any agreed proposals should be subject to a Road Safety Audit. Additionally, access proposals should comply with the requirements of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines.

Response:

Kerry County Council will ensure that all developments comply with the Spatial Planning and National Roads Guidelines (2012) and in particular sections 2.5, 2.7 and 2.11. A full traffic impact assessment will be undertaken to ascertain the implications of traffic generation, resulting from any development proposal on these lands and any subsequent design will be subject to a road safety audit.

Recommendation:

No amendment to the proposed variation.

Written Submission No.4: John Barrett

Submission:

The submission relates to proposed material alteration No.6 which seeks to re-zone lands from (R1) Proposed Residential to (O1) White Lands on Track Road / to the rear of Bridge Road. It is requested that the lands revert back to the proposed residential zoning in order to enable the development of the site for residential use while improving both pedestrian and vehicular access to the area.

Response

These lands have been identified as a flood risk under the OPW CFRAM Study. It is proposed to re-zone lands from (R1) proposed residential to (O1) White Lands and to include these lands within the Castleinch Masterplan Area. It is imperative that this site and adjacent lands are all developed in a coordinated and sustainable manner taking into consideration the identified flood risk.

Recommendation:

No amendment to the proposed variation.

Written Submission No.5: Mary O'Connell

Submission:

The submission relates to proposed material alteration No.3 which seeks to re-zone lands from (R1) proposed residential to (R4) Strategic Residential Reserve at Greenville Road. The submission is made on behalf of John & Kay Sayers. It is requested that the proposed zoning for these lands to be revised to (R1) / (R2) Proposed / Existing Residential Zoning as these lands are located adjacent to existing residential properties, fully serviced and suitable to be developed by virtue of its small compact size.

Response

The Planning Authority acknowledges the content of the submission. The Planning Authority re-examined the proposal to zone this land as (R1) Proposed Residential use in the context of the previous submission received from the Office of the Planning Regulator and the number of submissions relating to other lands, received from the general public. It is considered that other undeveloped lands in Listowel sequentially closer to the town centre should be advanced first for development and that the lands at Greenville (though contiguous to an established residential area) are not required for residential development at the current time hence the (R4) Strategic Reserve zoning. It is also considered that the zoning of these lands would exceed the amount of land required in the Core Strategy as contained in the County Development plan 2015-2021.

Recommendation:

No amendment to the proposed variation.

Written Submission No.6: Pat Tobin

Submission:

The submission relates to amendment No.4 and the zoning of lands as (P1) Agriculture adjacent to Kenny Heights. The submission requests that the (R1) proposed residential zoning in the original draft variation be kept in place, and that this could facilitate the development of a small number of dwellings. It is stated that this proposed development would be accessed via Kenny heights.

Response:

These lands are located at the end of a residential cul-de-sac on the peripheral edge of the town. Having regard to the submission received from the Planning Regulator, it is considered that from a sequential perspective that other undeveloped lands in Listowel should be advanced first for development and that the lands at Kenny heights (even though contiguous to an established residential area) are not required for residential development at the current time.

It is also considered that the zoning of these lands for residential use would exceed the amount of land required in the Core Strategy as contained in the County Development plan 2015-2021.

Recommendation:

No amendment to proposed variation.

Written Submission No.7:

Garrett Tobin

Submission:

The submission relates to the proposed new zoning adjacent to Kenny Heights (amendment No.4) and Golf View/Gurtenard (amendment No.16).

The submission requests that the proposed (R1) for Kenny Heights in the original draft be kept in place, as the Golf View development will not need the entire 2.7 ha in a single phase. It is suggested that a phased zoning for both sites would allow all properties to be developed.

Response:

The zoning of both parcels of lands adjacent to Kenny Heights and Golf View as (R1) proposed residential would exceed the amount of land required in the Core Strategy as contained in the County Development plan 2015-2021. See also the response to submission no.6.

Recommendation:

No amendment to proposed variation.

Written Submission No. 8:

Audrey Galvin

Submission:

The submission relates to amendment No.4 and the zoning of lands as (P1) agriculture adjacent to Kenny Heights. The submission has no objection to limited development on the site and also withdraws the previous submission on the draft variation.

Response:

See the response and recommendation to submission no 6 and 7.

Written Submission No.9:

Donal Daly

Submission:

The submission relates to amendment No.4 and the zoning of lands as (P1) agriculture adjacent to Kenny Heights. The submission supports the development of the site subject to a limit on the number of dwellings.

Response:

See the response and recommendation to submission no 6 and 7.

Written Submission No. 10:

David Barrett

Submission:

The submission relates to the proposed new zoning (R1 proposed residential) in Golf View/Gurtinard (amendment No.16) and its adjacent area. It is stated that the balance of development in the draft plan is entirely focussed on one main development. The area including Gurtinard Wood, the area around Golf View, Kenny Heights, the Greenway and the river walk all need to be considered as one complete cohesive plan. It also states that development of the R4 lands in the plan will be delayed as the R1 zoning in Golf View is too large.

Response:

It is considered that the continued development of lands at Golf View/Gurtinard is appropriate and sustainable as it is contiguous to an established residential area and fully serviced.

Recommendation:

No amendment to proposed variation.

Written Submission No.11: John Kennelly

Submission:

The submission relates proposed new zoning in Golf View/Gurtinard (amendment No.16). The submission recognises the need for land to be zoned residential in Listowel Town. It is stated that in order to preserve the continuity of the area it is suggested that only bungalows similar to adjacent residential units be permitted in the section which borders the existing estate.

Response:

It is a requirement under sections 9.1.2 and 15.4 of the Town Development Plan to require the preparation and submission of an Urban design Statement for any development of four or more dwellings. The statement must demonstrate how the proposal has taken into account the context and setting of the area and how this has been addressed in the design of the development. A design restriction, restricting a residentially zoned site to a particular dwelling type, height or density mitigates against the optimum development of the site and would be contrary to the Ministerial Guidelines "Sustainable Residential Development in Urban Areas".

Recommendation:

No amendment to proposed variation.

Written Submission No. 12:

Patricia & Gerry Dunne

Submission:

The submission relates to the proposed new zoning in Golf View/Gurtinard (amendment No.16). The submission recognises the need for land to be zoned residential in Listowel Town. It is stated that in order to preserve the continuity of the area it is suggested that only bungalows similar to adjacent residential units be permitted in the section which borders the existing estate.

A further concern is the likely continued access to this site via the Kenny Heights estate.

Response:

See the response and recommendation to submission no 11. In addition, a full traffic impact assessment will be undertaken as part of the development management process to ascertain the implications of traffic generation, resulting from any development proposal.

Recommendation:

No amendment to proposed variation.

Written Submission No.13:

Ina Baumann & Bill Kissane

Submission:

The submission relates proposed new zoning in Golf View/Gurtinard (amendment No.16). The submission recognises the need for land to be zoned residential in Listowel Town. It is stated that in order to preserve the continuity of the area it is suggested that only bungalows similar to adjacent residential units be permitted in the section which borders the existing estate.

Response:

See the response and recommendation to submission no 11.

Written Submission No.14:

Daisy Foley

Submission:

The submission relates to the proposed new zoning in Golf View/Gurtinard (amendment No.16). The submission recognises the need for land to be zoned residential in Listowel Town. It is stated that in order to preserve the continuity of the area it is suggested that only bungalows similar to adjacent residential units be permitted in the section which borders the existing estate.

Response:

See the response and recommendation to submission no 11.

Written Submission No. 15:

Denis Mulvihill

Submission:

The submission relates to amendment No.4 and the zoning of lands as (P1) agriculture adjacent to Kenny Heights. The submission requests that the proposed R1 for Kenny Heights in the original draft be kept in place, as the site is close to town with amenities and walks.

Response:

See the response and recommendation to submission no 6 and 7.

Written Submission No. 16:

Nicola Simpson

Submission:

The submission relates to many issues including proposed material alterations No. 15 (Feale View House) & 16 (Golf View).

The submission states that these alterations change the nature of the entire future town development and as such should have been part of the original draft town plan that went on display.

The submission states that the zoning of Golf View and its subsequent development should proceed with caution and in a limited capacity.

It states that Amendment No 16 has the potential to impact housing supply and road/pedestrian traffic including on walkways and in adjoining parks. It states that the town park and Garden of Europe walking paths may face increased traffic and may lose their tranquil nature. The submission requests mitigating options are developed to calm traffic and manage the greenway and its connections.

Response

The development of these lands will be subject to the design criteria outlined in the *Design Manual for Urban Roads and Streets* which takes into account vulnerable road users such as pedestrians and cyclists. These lands are also located outside the existing town park and Gurtinard Wood, therefore the impact of their development on the sites will be negligible.

Recommendation:

No amendment to the proposed variation.

Written Submission No. 17:**Brendan Nolan**

Submission:

The submission is made on behalf of Mr Billy Sheehy and relates to lands at Model Farm, Curraghtoosane on the Ballybunion Road. It is requested that these lands be zoned Commerce/industry/Enterprise/Economic Development (C1-C7).

Response:

The submission is noted. This submission does not relate to any of the proposed Material Alterations.

In addition, in accordance with Section 13 of the Planning and Development Act an increase in the area of land zoned for any purpose cannot be made at this stage of the statutory process.

Recommendation:

No amendment.

Written Submission No. 18:**Kate Carmody**

Submission:

The submission relates to the amendment No.8 and its impact on Listowel town and the adjacent area. It is stated that the construction of the N69 Bypass will result in a flood risk as the road is through a major flood plain.

Response

Permission for the N69 Listowel By-pass has been granted by An Bord Pleanála. Proposed amendment No.8 seeks to ensure that lands required for the approved N69 Bypass are retained free from development. It is essential that this objective is included in order to ensure the delivery permitted scheme.

Recommendation:

No amendment to the proposed variation.

Written Submission No. 19:**Edward O'Sullivan (Solicitors)**

Submission:

The submission is made on behalf of Mr Billy Sheehy and relates to lands at Model Farm, Curraghtoosane on the Ballybunion Road. It is requested that these lands be zoned Commerce/industry/Enterprise/Economic Development (C1-C7).

Response:

The submission is noted. This submission does not relate to any of the proposed Material Alterations.

In addition, in accordance with Section 13 of the Planning and Development Act an increase in the area of land zoned for any purpose cannot be made at this stage of the statutory process.

Recommendation:

No amendment.

Chief Executives Recommendation:

It is recommended that the proposed Material Alterations to the Listowel Town Plan 2009-2015 (as extended & varied) be adopted.

Signed:



**Michael Scannell,
Director of Services / Stiúrthóir Seirbhísí,
Economic & Community Development /
Forbairt Eacnamaíochta & Pobail**

Date:

