



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

9<sup>th</sup> May 2024

Mr. Darragh O'Brien TD,  
Minister for Housing, Local Government and Heritage,  
Department of Housing, Local Government and Heritage,  
Custom House,  
Dublin 1,  
D01 W6X0.

**BY HAND AND BY EMAIL**

**Re: Notice Pursuant to section 31AO(7) of the Planning and Development Act 2000 (as amended) – Kenmare Municipal District Local Area Plan 2024-2030**

A chara,

I am writing to you in relation to the recent adoption of the Kenmare Municipal District Local Area Plan 2024-2030 (the 'Local Area Plan') by the elected members of Kerry County Council ('the Council').

In particular, I am writing to you in the context of the statutory duty of the Office of the Planning Regulator ('the Office') pursuant to section 31AO(7) of the *Planning and Development Act 2000* (as amended) (the 'Act') to issue a Notice to you on the basis that, having considered the Local Area Plan, the Office is of the opinion that:

- a) the Local Area Plan has not been made in a manner consistent with recommendations of the Office, made on the 1<sup>st</sup> March 2024 in its submission at material alterations stage, which recommended specific changes to the Local Area Plan:
  - i. To ensure consistency between the requirement for land zoned for residential development commensurate with the growth targets for settlements in the core strategy of the Kerry County Development Plan 2022-2028 (the 'County Development Plan') and the proposed zoning objectives for residential development, cognisant of the requirements

under section 19(2) and section 20(5) of the Act, and having regard (inter alia) to compact growth under Objective KCDP 4-1 and RPO 35, to the sequential approach to zoning under section 6.2.3 of the County Development Plan and the policy and objective of the Development Plans, Guidelines for Planning Authorities (2022) (the Development Plans Guidelines), to RPO 91 decarbonisation of the transport sector, to RPO 151 integration of land use and transport and the lack of adequate infrastructure to support residential development as identified in the Settlement Capacity Audit.

Specifically, the Local Area Plan zones land for residential development in peripheral locations, outside the Local Area Plan settlement boundary and the majority of which is located outside the CSO 2016 settlement boundary. The majority of this land is not serviced or serviceable within the plan period, and leapfrogs unzoned and/or undeveloped zoned land and, in so doing, does not apply the sequential approach to development to support compact growth of the town and its environs.

- ii. To ensure consistency with the objectives and policies of the County Development Plan concerning the sequential development of retail consistent with Development Plan Objective KCDP 4-61, and having regard to the policy and objective of the Development Plans Guidelines and to sections 2.5.2 and 4.4 of the *Retail Planning Guidelines for Planning Authorities* (2012) (Retail Planning Guidelines), and consistent with RPO 91 decarbonisation of the transport sector and RPO 151 integration of land use and transport.

Specifically, the Local Area Plan zones land for mixed use, including retail, which leapfrogs unzoned and/or undeveloped zoned land and, in so doing, does not direct new retail opportunities into town centres and does not apply the sequential approach to development, in a location that does not promote sustainable transport and is not consistent with an integrated approach to land use and transport.

- iii. To ensure consistency with the objectives of the County Development Plan concerning the sequential development of land identified as Strategic

Residential Reserve for long term use consistent with Objective KCDP 4-1 and with RPO 91 decarbonisation of the transport sector and RPO 151 integration of land use and transport.

Specifically, the Local Area Plan zones land as Strategic Residential Reserve in Cahersiveen, in a peripheral location, outside the Local Area Plan settlement boundary, outside the CSO 2016 settlement boundary, which leapfrogs unzoned and/or undeveloped zoned land and, in so doing, does not apply the sequential approach to development to support compact growth of the town and its environs.

- iv. To ensure consistency with the objectives of the County Development Plan concerning the safeguarding of the function of the strategic road network under Objective KCDP 9-22, and to RPO 151 integrated land use and transportation, and RPO 114 and RPO 115 concerning flood risk management.

Specifically, the Local Area Plan zones land as C2.1 Industrial/Enterprise/Employment in a peripheral location on the N70 national road where the maximum speed limit applies, which land is within flood risk zone A and B, and which land does not facilitate access by public transport or accessibility by walking, cycling and public transport;

- b) the decision of the Council results in the making of a local area plan in a manner that is inconsistent with the recommendations of the Office, and with the objectives of the development plan of the area concerned contrary to the requirements of section 19(2) of the Act; and
- c) the use by you of your function to issue a direction under section 31 of the Act would be merited.

The reasons for the opinion of the Office are set out in further detail in section 2 of this letter. This letter is a Notice to you pursuant to section 31AO(7) of the Act.

## **1. Background**

### **1.1 Draft Kenmare Municipal District Local Area Plan 2023-2029**

The Draft Kenmare Municipal District Local Area Plan 2023 – 2029 (the ‘draft Local Area Plan’) was on public display from the 31<sup>st</sup> August 2023 to the 3<sup>rd</sup> November 2023.

The Office made a submission to the draft Local Area Plan dated 3<sup>rd</sup> November 2023, containing five (5) recommendations and three (3) observations<sup>1</sup>. Specifically, issues raised related to:

- Recommendation 1 – Residential land use zoning
- Recommendation 2 – Residential reserve land use zoning
- Recommendation 3 – Residential zonings for villages
- Recommendation 4<sup>2</sup> – Sustainable transport and accessibility
- Recommendation 5<sup>3</sup> – Flood risk management

Subsequently, the Chief Executive sent a notice letter under section 20(3) of the Act dated 1<sup>st</sup> February 2024 advising the Office of the proposed material alterations to the draft Local Area Plan.

### **1.2 Material Alterations to the draft Kenmare Municipal District Local Area Plan 2023-2029**

The elected members, having considered the draft Local Area Plan and the Chief Executive’s (CE’s) Report on the public consultation regarding the draft Local Area Plan dated January 2024<sup>4</sup> (CE’s Report draft stage), resolved to alter the draft Local

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<sup>1</sup> The original submission contained five recommendations but incorrectly numbered two recommendations ‘Recommendation 3’. This was clarified with the planning authority subsequently and the submission letter was corrected.

<sup>2</sup> Mislabelled Recommendation 3 in original submission.

<sup>3</sup> Mislabelled Recommendation 4 in original submission.

<sup>4</sup> The report does not state a precise date of publication.

Area Plan. The material alterations to the draft Local Area Plan were on public display from 1<sup>st</sup> February to 1<sup>st</sup> March 2024.

The material alterations included a series of individual material alterations relating to the zoning of land in Kenmare, Killorglin, Cahersiveen, Chapeltown, and in particular included:

- Killorglin - proposed material alterations MA 35 (zone lands outside settlement boundary as R1 New/Proposed Residential – site KG-102), MA 36 (extend the settlement boundary and zone M1 Mixed – site KG-104), and MA 38 (zone lands outside of the settlement boundary as R1 New/Proposed Residential - site KG-103);
- Cahersiveen - proposed material alteration MA 18 (zone lands outside of the settlement boundary as R4 Strategic Residential Reserve - site CH-103);
- Killorglin - proposed material alteration MA 60 (zone lands to the west of Killorglin as C2.1 Industrial/Enterprise/Employment).

The Office made a submission dated 1<sup>st</sup> March 2024 on the material alterations to the draft Local Area Plan containing five (5) recommendations. The submission also noted the decision of the planning authority not to comply in full or in part, in particular, with Recommendations 1, 2 and 3 of the Office's submission to the draft Local Area Plan.

The Office recommendations at material alterations stage included:

- MA Recommendation 1 – Residential zonings in Kenmare
- MA Recommendation 2 – Residential and Mixed Use zonings in Killorglin
- MA Recommendation 3 – Strategic Residential Reserve zoning in Cahersiveen
- MA Recommendation 4 – Strategic Residential Reserve zoning in Chapeltown
- MA Recommendation 5 - Industrial / Enterprise / Employment zoning in Killorglin

### **1.3 Adopted Kenmare Municipal District Local Area Plan 2024-2030**

The elected members of the Council resolved to make the Local Area Plan on 12<sup>th</sup> April 2024.

Subsequently, the Chief Executive sent a notice letter under section 31AO(5) of the Act dated 19<sup>th</sup> April 2024 (the '31AO(5) notice letter') to the Office advising of the making of the Local Area Plan and specifying the recommendations of the Office not complied with. The 31AO(5) notice letter included a summary of the Chief Executive's reasons, or the elected members' reasons, for not complying with the recommendations.

The 31AO(5) notice letter stated that the following recommendations of the Office had not been complied with, in part or in full:

- Recommendation 1
- Recommendation 2
- Recommendation 3
- MA Recommendation 1
- MA Recommendation 2
- MA Recommendation 3
- MA Recommendation 4
- MA Recommendation 5

With the exception of MA Recommendation 2, 3 and 5, the Office accepts the response of the Chief Executive, and/or the reasons of the Chief Executive and/or the elected members for not complying in full or in part with the recommendations of the Office, or otherwise considers the response satisfactory within the legislative and policy context.

Having reviewed the CE's Report (draft stage), the notice of the publication of the material alterations (1<sup>st</sup> February 2024), the CE's Report on the material alterations to the draft Local Area Plan dated March 2024 (CE's Report MA stage) and of the making of the Local Area Plan and the reasons in the 31AO(5) notice letter, the

Office has concluded that, with the exception of the below, the recommendations of the Office have been responded to in the reports and/or 31AO(5) notice letter and have been addressed to the satisfaction of the Office, or are otherwise considered satisfactory within the legislative and policy context.

The outstanding matters, therefore, are as follows:

- Residential land use zoning, Killorglin – MA Recommendation 2
- Mixed use land use zoning, Killorglin – MA Recommendation 2
- Strategic Residential Reserve land use zoning, Cahersiveen – MA Recommendation 3
- Industrial / Enterprise / Employment land use zoning, outside Killorglin – MA Recommendation 5

These outstanding matters are considered in more detail below.

## **1.4 Residential and Mixed Land Use Zonings**

### **MA Recommendation 2 – Residential and Mixed Use zonings in Killorglin**

This recommendation required the planning authority to make the Local Area Plan without three proposed R1 New/Proposed Residential zoning objectives and one M1 Mixed Use zoning objective. The recommendation stated:

*Having regard to:*

- *the requirements under sections 19(2) and 20(5) of the Planning and Development Act 2000, as amended, concerning consistency with the objectives of the development plan and its core strategy;*
- *the core strategy of the Kerry County Development Plan 2022-2028 (the Development Plan), and the housing supply target for Killorglin;*
- *the extent of sequentially preferable R1 – New / Proposed Residential lands proposed to be zoned in Killorglin to meet the housing supply target in the core strategy;*

- *the lack of adequate infrastructure to support residential development as identified in the Settlement Capacity Audit;*
- *Objective KCDP 4-1 of the Development Plan to promote the sustainable development of land to achieve compact growth;*
- *the extent of preferable located M1 – Mixed Use lands in the town centre and Objective KCDP 4-61 to consolidate, intensify and enhance existing core retail areas;*
- *Objective KENMD-3 of the Draft Kenmare Municipal District Local Area 2023-2029 regarding sustainable management of the land resource and to ensure integrated and consolidated development;*
- *Regional Policy Objectives RPO 35 (Support for Compact Growth), RPO 91 (Decarbonisation in the Transport Sector), and RPO 151 (Integration of Land Use and Transport) of the RSES; and*
- *the policy and objective of the Development Plans, Guidelines for Planning Authorities (2022) (Section 6.2.3) that ‘planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently; and*
- *Sections 2.5.2 and 4.4 of the Retail Planning Guidelines for Planning Authorities (2012) – Sequential Development Approach,*

*the planning authority is required to make the LAP without the following Material Alterations:*

- i. Material Alteration 35 (Site KG-102);*
- ii. Material Alteration 36 (Site KG-104);*
- iii. Material Alteration 37 (Site KG-8b);*
- iv. Material Alteration 38 (Site KG-103).*



### **Material Alteration 35 (Site KG-102)**

The Chief Executive, in the CE's Report (MA stage) noted and agreed with the OPR's justification and rationale for MA Recommendation 2, including that the subject site does not meet the criteria of the policy and objective of the Development Plans Guidelines that planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first. The Chief Executive also confirmed that this *'site is ... not Tier 1 Serviced Zoned Land and based on the level of servicing required, it cannot be considered to be Tier 2'* and *'therefore does not meet the criteria to be zoned and would also contravene Objective KCDP 3-6 of the KCDP 2022-2028'*.

The reasons given by the elected members for not complying with the recommendation are summarised in the section 31AO(5) notice letter as:

- the lands are within walking distance of the town centre and other facilities;
- the lands are connected to the town centre;
- There is a housing shortage in the town;
- there is no housing to buy/rent in the town;
- there has been no private estate built since 2007;
- there is need for additional residential zoning in the town;
- the lands adjoin an existing large estate;
- the lands can be connected to the town sewer and is serviced;
- the landowner is not seeking to make a profit but wants to deliver housing for the town; and
- Killorglin has sewage capacity.

The subject site is located in a peripheral location, to the northwest and c.285m outside the Local Area Plan settlement boundary. The Office considers that, while the site may technically be within walking distance (c.1km) of the town centre, there are no pedestrian footpaths to provide connectivity along Laharn Road, for a distance of at least 500m.

Furthermore, the land is peripherally located, removed from the existing, contiguous built-up area of Killorglin. The zoning is not sequential and leapfrogs extensive undeveloped, non-zoned land and zoned residential land closer to the centre of the town. The Office notes that while the site is adjacent to the far end of an existing housing estate, the existing development is also peripherally located, situated outside the Local Area Plan settlement boundary and is not sequential development. The zoning is therefore inconsistent with the policy under section 6.2.3 of the County Development Plan, which was referred to in the Office's submission on the draft Local Area Plan, to:

*support a sequential approach to residential development in which the first-choice location for new housing is within the built-up area of towns and villages, while maximising under-utilised infill and brownfield lands within town and village centres.*

This policy framework applies the policy and objective of the Development Plans Guidelines that *'planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently'*, which provides a sound basis for planning authorities to zone land for residential development.

Uisce Éireann's submission dated 1<sup>st</sup> March 2024 reports that network extensions may be required for this site. According to the Chief Executive, although Killorglin has sewerage capacity, the site does not have connectivity to the foul drainage network and cannot be serviced within the plan period. It is therefore inconsistent with Objective KCDP 3-6 of the County Development Plan which seeks to *'zone land for residential purposes in accordance with the Tiered approach outlined in the National Planning Framework.'*

In relation to the reasons of the elected members regarding housing need, the Settlement Capacity Audit prepared as part of the Local Area Plan identifies that, excluding *Site KG-102, Site KG-8b, Site KG-103, and Site KG-104*, the zoning objectives for Killorglin have capacity to accommodate 573 housing units, well in excess of the core strategy housing target of 251.

The Office is satisfied therefore that the Local Area Plan, as proposed to be amended by this draft Direction, would provide for a reasonably balanced distribution of residential zoned lands having regard to the availability of suitable sites consistent with compact growth and having regard to the sequential approach to zoning.

There is, therefore, no justification to retain Site KG-102 to meet housing demand, which is inconsistent with the core strategy of the County Development Plan.

No or no adequate reasons have been provided to explain why the planning authority has decided not to implement Objective KCDP 3-6 to zone land for residential purposes in accordance with the tiered approach to zoning, or the policy for sequential zoning (section 6.2.3) under the County Development Plan, and why the planning authority has failed to apply the policy and objective for sequential zoning under the Development Plans Guidelines in respect of this zoning objective.

### **Material Alteration 36 (Site KG-104 – M1 Mixed)**

The Chief Executive, in the CE's Report (MA stage) noted and agreed with the OPR's justification and rationale for this recommendation. The Chief Executive considered that retail development on this mixed use site, located a significant distance outside of the town centre, would '*contravene*':

- the Local Area Plan provision that '*any retail development that takes place in Killorglin should take place in the town centre in order to encourage its regeneration and development as a vibrant town centre*';
- '*national planning policy and guidance, specifically undermines the 'Town Centre First' policy enshrined in the County Plan and the LAP and undermines the promotion of compact growth and potential for redevelopment of brownfield/infill sites more centrally located*';
- Objective KCDP 4-42 of the KCDP 2022-2028 which seeks to '*promote the development of the town centre as the primary location for retail and as an attractive location for shopping, business, tourism, residential and community life*'; and
- the policy and objective of the Development Plans Guidelines that planning authorities adopt a sequential approach to zoning.

The reasons given by the elected members for not complying with the recommendation are summarized in the section 31AO(5) notice letter as:

- there is traffic congestion in town;
- it would suit the town to have a retail development on this site;
- there is a large residential estate at Bansha;
- the site is in close proximity to town;
- traffic calming and footpaths are in place;
- permission was previously refused prior to the speed limit reduction and upgrading of adjacent footpaths;
- there is a need to keep options open in terms of retail; and
- people want a supermarket there.

Site KG-104 – M1 Mixed Use / Opportunity Site<sup>5</sup> is located in a peripheral location, outside the Local Area Plan settlement boundary and the majority outside the CSO 2016 settlement boundary, at a distance of c.530m from the town centre, which is inconsistent with Objective KCDP 4-61, which seeks to:

*Facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in the Regional Towns, and ensure their sustainable development by consolidating, intensifying, and enhancing their existing core retail areas, and by directing new retail opportunities into town centres.*

The zoning, which is remote from the commercial core of Killorglin and at a significant distance from the established built up area of the town, does not consolidate the existing core retail areas or direct new retail opportunities into Killorgling town centre. Rather it will facilitate the development of disperse retail development located outside of the retail core, and outside of town centre (M2) and the opportunity sites (M1) located adjacent to the town centre.

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<sup>5</sup> Although the material amendment (p.31) refers to it as M1 Mixed, the land use zoning map refers to the zoning as M1 Mixed Use / Opportunity Site.

This peripheral, isolated site, at a distance from the core retail area, will not facilitate linked trips. The site is situated on a national secondary route, at a distance from the main residential areas. Bansha housing estate is over 400m away, but the design of the estate is such that the most distance house would have a c.1km walk to the site. Notwithstanding that a footpath is in place along the opposite side of the N70, the subject site will therefore likely attract car-based rather pedestrian or cycle trips. It does not therefore represent an integrated approach to land use and transport, consistent with RPO 151 within the context of the *National Sustainable Mobility Policy (2022)*, the *Climate Action Plan 2024* and the targets of the *Climate Action and Low Carbon Development Act 2015*, as amended.

No or no adequate reasons have been provided to explain why the planning authority has decided not to implement Objective KCDP 4-61 to consolidate existing core retail areas, or RPO 151 integration of land use and transportation, including the prioritisation of development within or contiguous with the existing built-up areas and the focusing of trip intensive development - such as retail - into central locations.

### **Material Alteration 38 (Site KG-103 - R1 New Residential)**

The CE's Report (MA stage) noted and agreed with the OPR's justification and rationale for this recommendation. The Chief Executive considered the zoning of this site, located at a distance of c.350m outside the Local Area Plan settlement boundary to be without regard to the policy and objective to adopt a sequential approach when zoning lands under the Development Plans Guidelines. The Chief Executive also confirms that this '*site is ... not Tier 1 Serviced Zoned Land and based on the level of servicing required, it cannot be considered to be Tier 2*' and '*therefore does not meet the criteria to be zoned and would also contravene Objective KCDP 3-6 of the KCDP 2022-2028*'.

The reasons given by the elected members for not complying with the recommendation are summarized in the section 31AO(5) notice letter as:

- the lands are within walking distance to the town centre and other facilities;
- the lands are easily connected to the town centre;
- there is a housing shortage in Killorglin town; and

- there is need for additional residential zoning in the town.

Site KG-103 - R1 New Residential is located in a peripheral location, to the northwest and c.400m outside the Local Area Plan settlement boundary. The Office considers that, while the site may technically be within walking distance (c.1km) of the town centre, there are no pedestrian footpaths to provide connectivity along Laharn Road, for a distance of at least 625m.

Furthermore, the land is situated in a peripheral location removed from the existing, contiguous built-up area of Killorglin. The zoning is not sequential and leapfrogs extensive undeveloped residential land and other non-zoned land closer to the centre of the town. As per MA 35 Site KG-102 above, the zoning is therefore inconsistent with the policy under section 6.2.3 of the County Development Plan, which applies the policy and objective of the Development Plans Guidelines to prioritise the most centrally located development sites in a settlement first.

Uisce Éireann's submission of 01/03/2024 reports that network extensions may be required for this site. According to the CE, although Killorglin has sewerage capacity, the site does not have connectivity to the foul drainage network and cannot be serviced within the plan period. It is therefore inconsistent with objective KCDP 3-6 of the County Development Plan which seeks to '*zone land for residential purposes in accordance with the Tiered approach outlined in the National Planning Framework.*'

In relation to the reasons of the elected members regarding housing need, the Office reiterates the considerations set out in respect of MA 35 Site KG-102 above.

There is, therefore, no justification to retain Site KG-102 to meet housing demand, which is inconsistent with the core strategy of the County Development Plan.

No or no adequate reasons have been provided to explain why the planning authority has decided not to implement objective KCDP 3-6 to zone land for residential purposes in accordance with the tiered approach to zoning, or the policy for sequential zoning (section 6.2.3) under the County Development Plan, and why the planning authority has failed to apply the policy and objective for sequential zoning under the Development Plans Guidelines in respect of this zoning objective.

## 1.5 Strategic Residential Reserve Land Use Zonings

### MA Recommendation 3 – Strategic Residential Reserve zoning in Cahersiveen, Material Alteration 18

This recommendation was that the planning authority make the Local Area Plan without a proposed R4 Strategic Residential Reserve zoning objective. The Recommendation stated:

*Having regard to:*

- *the requirements under sections 19(2) and 20(5) of the Planning and Development Act 2000, as amended, concerning consistency with the objectives of the development plan and its core strategy;*
- *the core strategy of the Kerry County Development Plan 2022-2028 (the Development Plan), and the housing supply target for Cahersiveen;*
- *the extent of lands already zoned R4 – Strategic Residential Reserve (site CH-4) in Cahersiveen;*
- *Objective KCDP 4-1 of the Development Plan to promote the sustainable development of land to achieve compact growth;*
- *Objective KENMD-3 of the Draft Kenmare Municipal District Local Area Plan 2023-2029 regarding sustainable management of the land resource and to ensure integrated and consolidated development;*
- *Regional Policy Objectives RPO 35 (Support for Compact Growth), RPO 91 (Decarbonisation in the Transport Sector), and RPO 151 (Integration of Land Use and Transport) of the RSES; and*
- *the policy and objective of Development Plans, Guidelines for Planning Authorities (2022) (Section 6.2.3) that ‘planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently’;*

*the planning authority is required to make the LAP without Material Alteration 18 (Site CH-103).*

The CE's Report (MA stage) noted and agreed with the Office's justification and rationale for this recommendation. The Chief Executive considered that the zoning of this site, located at a distance of c.200m outside the Local Area Plan settlement boundary and over 1km from the town centre, does not have regard to the policy and objective to adopt a sequential approach when zoning lands under the Development Plans Guidelines. Notwithstanding its proximity to existing residential and other mixed uses, the Chief Executive considered there to be other more suitable infill sites that should be developed first. Further, the Chief Executive '*considered the existing R4 zoned lands located in the core to be sufficient to cater for the long-term residential needs of Cahersiveen, i.e. they will be considered first for rezoning in future plans if required.*'

The reasons given by the elected members for not complying with the recommendation are summarised in the section 31AO(5) notice letter as:

- the lands are adjacent to an existing housing estate;
- the lands are between an estate and Cahersiveen town;
- the lands are serviced with water and sewerage;
- the PA granted permission outside this site in the past;
- there are now safeguards in the plan for R4 lands that 80% of R1 lands need to be developed first;
- located across from the secondary school; and
- would be beneficial to young families.

Site CH-103 is located in a peripheral location, to the south and outside the Local Area Plan settlement boundary and the CSO 2016 settlement boundary<sup>6</sup>.

Notwithstanding the proximity to the secondary school, the Office is satisfied that

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<sup>6</sup> The 2016 CSO settlement boundaries are stated as having been defined in line with UN criteria i.e. having a minimum of 50 occupied dwellings, with a maximum distance between any dwelling and the building closest to it of 100 metres, and where there is evidence of an urban centre (shop, school etc.).



the subject land is inconsistent with the implementation of effective compact growth consistent with Objective KCDP 4-1 and RPO 35.

Furthermore, the land peripherally located, removed from the existing, contiguous built-up area of Cahersiveen. The zoning is not sequential and leapfrogs extensive undeveloped, non-zoned and zoned residential land closer to the centre of the town. The Office notes that while the site is adjacent an existing housing estate, the existing development is also peripherally located, situated outside the Local Area Plan settlement boundary and is not sequential development. The zoning is therefore inconsistent with the policy under section 6.2.3 of the County Development Plan, which applies the policy and objective of Development Plans Guidelines to prioritise the most centrally located development sites in a settlement first.

Furthermore, there is ample R4 zoned land within the Local Area Plan settlement boundary to provide for the strategy future development of the town consistent with compact and sequential growth. No or no adequate reasons have been provided to explain why the planning authority has decided not to implement Objective KCDP 4-1 compact growth (and RPO 35 of the RSES), or the policy for sequential zoning (section 6.2.3) under the County Development Plan, and why the planning authority has failed to apply the policy and objective for sequential zoning under the Development Plans Guidelines in respect of this zoning objective.

## **1.6 Industrial / Enterprise / Employment Land Use Zonings**

### **MA Recommendation 5 – Industrial / Enterprise / Employment zoning in Killorglin, Material Alteration 60**

This recommendation required the planning authority to make the Local Area Plan without a proposed C2 Industrial / Enterprise / Employment land use zoning objective. The recommendation stated:

*Having regard to:*

- *the requirements under sections 19(2) and 20(5) of the Planning and Development Act 2000, as amended, concerning consistency with the objectives of the development plan; and*

- *Objective KCDP 9-22 of the Kerry County Development Plan 2022-2028 regarding proposals for economic development and safeguarding the strategic function of the national road network;*
- *Regional Policy Objective 151 of the RSES and its principles for land use and transport integration, namely that employment development is consolidated and intensified in a manner which renders it serviceable by public transport and ensures that it is highly accessible;*
- *section 3.2.3.8 of the Draft Kenmare Municipal District Local Area Plan 2023-2029 and the extent of lands already zoned for commerce / industry / enterprise / economic development in the main settlement of Killorglin; and*
- *the Strategic Flood Risk Assessment's assessment of the proposed material alterations which indicate a need for a justification test; and*
- *Regional Policy Objectives RPO 114 (Flood Risk Management) Objectives RPO 116 (Planning System and Flood Risk Management) of the RSES, the planning authority is required to make the LAP without Material Alteration 60.*

The CE's Report (MA stage) noted and agreed with the OPR's justification and rationale for this recommendation. The Chief Executive noted that concerns have also been raised in respect of this site in the submissions from Uisce Éireann, Transport Infrastructure Ireland (TII), National Transport Authority (NTA) and the Office of Public Works (OPW).

The Chief Executive considered that this site, located at a distance of over 2km west of the Killorglin, does not have regard to provisions for a sequential approach and accessibility when zoning lands for employment under the Development Plans Guidelines. The Chief Executive asserts that the site is inconsistent with the criteria for designating employment zonings as set out in section 9.6.1 of the County Development Plan, and that the site is not serviced or serviceable during the plan period due to its remote location. In this regard the Chief Executive notes that Uisce Éireann recommended that the material alteration was not made.

Noting the submission of TII, the Chief Executive states that the amendment site, located on the N70 where the maximum speed limit applies, is inconsistent with Objective KCDP 14-29 and Objective KCDP 14-30 of the County Development Plan, which seek to protect the capacity and safety of national roads in compliance with the *Spatial Planning and National Roads Guidelines (2012)* (National Roads Guidelines) and avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply.

The reasons given by the elected members for not complying with the recommendation are summarized in the section 31AO(5) notice letter as:

- there is no place in town of Killorglin that can cater for industrial development;
- Killorglin needs this type of zoning;
- there is an access onto a local road;
- the lands are next to existing businesses and in close proximity to machinery yard;
- Killorglin does not have lands zoned for certain activities, those with lorries, manufacturing, traffic noise, not suited to urban setting;
- investment would be lost;
- the lands are next to existing services;
- certain type of industrial activities are not suited to urban environment;
- all lands zoned in Killorglin are about to be utilised; and
- the zoning of these lands will create an opportunity for existing businesses at this location to expand.

The subject site is located in a peripheral location c.2km west of the LAP settlement boundary and CSO 2016 settlement boundary, in an unserved rural area in the open countryside outside of any settlement and is inconsistent with RPO 151 Integration of Land Use and Transport, which seeks to consolidated and intensify new employment development in a manner that renders it serviceable by public transport, walking and cycling, and is internally inconsistent with the policy approach

under section 3.2.3.8 of the Local Area Plan to encourage new industries on lands to the northeast of Killorglin town.

As the site is not serviced for wastewater, as confirmed by Uisce Éireann in its submission at MA stage, and as the Chief Executive has confirmed it is not serviceable within the plan period, the Chief Executive considers it '*would not meet the criteria for designating employment zonings*' under section 9.6.1 of the County Development Plan, which criteria includes:

*Compliance with the NPF (NPO 72) on a standardised, tiered approach that differentiates between zoned land that is serviced and that which is serviceable within the life of the plan.*

As the land is located along the N70 national secondary road where the maximum speed limit applies, and having regard to TII's submission on the material alteration, the subject amendment is also inconsistent with Objective KCDP 9-22 and also with Objective KCDP 14-29 and Objective KCDP 14-30 of the County Development Plan, which seek to protect the capacity and safety of national roads in compliance with the National Roads Guidelines and does not apply to section 2.5 of these guidelines. While the eastern end of the site abuts a local road, this is within flood risk zone A (and B), where vulnerable development, including local transport infrastructure, should be avoided, unless they have passed the plan-making justification test.

The subject land is partly located within flood risk zone A and B. The policy framework set out in the County Development Plan applies *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* (the 'Flood Guidelines') which provide a sound basis for planning authorities to identify, assess and take appropriate steps to manage flood risk in a sustainable manner within their area. The key message of the Flood Guidelines is to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

The sequential approach set out in the Flood Guidelines provides that where a planning authority is considering the future development of areas at a high or moderate risk of flooding, it must be satisfied that it can clearly demonstrate on a solid evidence base that the zoning or designation for development will satisfy the Justification Test. The OPW's submission on the material alterations dated 29<sup>th</sup>

February 2024 indicated that the subject land has not been subject of the plan making justification test and would not satisfy the plan making justification test.

Accordingly, the subject land use zoning is inconsistent with RPO 116 Planning System and Flood Risk Management, which states:

*Consideration must be given to future appropriate land-use policies in accordance with the requirements of the Guidelines, “The Planning System and Flood Risk Management 2009”. ... [and that] It is an objective to avoid inappropriate development in areas at risk of flooding...*

and fails to apply the Flood Guidelines.

Regarding the need to cater for industrial development and the using up of existing capacity in the near future, section 3.2.3.8 of the Local Area Plan states:

*...Sufficient lands are zoned to the northeast of the town at Clooncarrig on the N70-Killorglin to Tralee Road to allow for the expansion of the existing industries in this area or to allow new industries develop. Any new industries of a similar type will be encouraged through the planning process to establish and develop adjacent to this existing industrial area where possible and create a “clustering” of similar type businesses...*

The lands at Clooncarrig are zoned C2.1 Industrial / Enterprise / Employment.

While the Office accepts that certain industrial activities may be unsuited to certain urban environments, no reasons or no adequate reasons have been provided to explain why the lands at Clooncarrig cannot accommodate activities generating lorry traffic, traffic noise and manufacturing.

Section 6.2.5 of the Development Plans Guidelines states that the ‘*evidence and rationale underpinning the zoning of land for employment purposes must be clear and strategic in nature*’. This evidence base is particularly important where such zonings would potentially conflict with the national, regional and/or county planning policy framework. No or no adequate evidence base has been presented to support the subject zoning.

Regarding the need to facilitate the expansion of existing business uses, the expansion of those uses onto adjacent non-zoned lands would necessarily be considered on their own merits against the provisions of the County Development Plan.

No or no adequate reasons have been provided to explain why the planning authority has decided not to implement RPO 151 for the integration of land use and transport; the criteria for designating employment zonings under section 9.6.1 of the County Development Plan (including NPO 72); Objectives KCDP 9-22, KCDP 14-29 and KCDP 14-30 of the County Development Plan or to apply section 2.5 of the National Roads Guidelines; and to implement RPO 116 or to apply the Flood Guidelines.

## **2. Opinion of the Office and Reasons**

Having considered the adopted Local Area Plan, the Office is of the opinion, under section 31AO(6) of the Act, that the said Local Area Plan has not been made in a manner consistent with the recommendations of the Office.

Further, the Office does not accept that the reasons given for not implementing the Office's recommendations in the 31AO(5) notice letter adequately justify the failure to implement those recommendations or explain how, notwithstanding that failure, the Local Area Plan as made is consistent with the objectives of the County Development Plan.

As you will be aware, under section 31AO(1) of the Act, the Office has a statutory duty to evaluate and assess planning authority local area plans.

The following provisions of the Act are relevant in terms of the evaluation and assessment of local authority plans such as this Local Area Plan:

- the provisions of section 31AO(2) in respect of ensuring that, where appropriate, the Office addresses the legislative and policy matters set out thereunder;
- under section 31AO(3)(a), in making observations or submissions in respect of any plan evaluation or assessment, the Office shall make, to the relevant planning authority, such recommendations in relation to the Office's evaluation

and assessments as it considers necessary to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions;

- under section 31AO(6), shall consider whether or not the local area plan as made, amended or revoked by the planning authority is, in the opinion of the Office, consistent with any recommendations made by the Office;
- in performing its functions, the Office must, under section 31P(3) of the Act, take account of the objective for contributing to proper planning and sustainable development and the optimal functioning of planning under the Act; and
- under section 31S, the Office shall, in performing its functions, have regard to:
  - a) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under *Chapter IV of Part II*), planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural;
  - b) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State;
  - c) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and any regional spatial and economic strategy for the time being in force; and
  - d) the requirements of relevant acts of the European Union, in particular, those relating to—
    - (i) the Environmental Impact Assessment Directive,
    - (ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
    - (iii) the Habitats Directive, and

(iv) the Birds Directives,

in so far as those requirements relate to planning authorities by virtue of being designated competent authorities for the purposes of those acts.

Accordingly, having considered the Local Area Plan in light of section 31AO(1), section 31AO(2)(a)-(e), section 31AO(3)(a), section 31P(3) and section 31S, and the notice letter from the planning authority dated 19<sup>th</sup> April 2024 issued under section 31AO(5) the Office is of the opinion that the Local Area Plan has not been made in a manner consistent with the recommendations of the Office under section 31AO (7).

The adopted Local Area Plan includes material alterations which:

- zone additional R1 New / Proposed Residential land in Killorglin inconsistent with the core strategy of the County Development Plan, and which zones additional R4 Strategic Residential Reserve in Cahersiveen. These material alterations are located in peripheral and/or non-sequential locations, and/or unserved locations, and/or outside the CSO boundary of Cahersiveen. The material alterations would individually and cumulatively encourage a pattern of development in particular locations which is inconsistent with Objective KCDP 4-1 of the County Development Plan and RPO 35 of the RSES to implement compact growth, Objective KCDP 3-6 to zone land for residential purposes in accordance with the tiered approach to zoning, and the policy for sequential zoning (section 6.2.3) under the County Development Plan, and have provided no or no adequate reasons for not applying the policy and objective for sequential zoning under the Development Plans Guidelines issued under section 28 of the Act.

For the avoidance of doubt, the Office is satisfied that the stated policy under section 6.2.3 of the County Development Plan to *'support a sequential approach to residential development in which the first-choice location for new housing is within the built-up area of towns and villages, while maximising under-utilised infill and brownfield lands within town and village centres'*, accords with the policy and objective for a sequential approach.



- zones additional M1 Mixed Use / Opportunity Site in Killorglin. This material alteration is located a peripheral location, remote from the existing town centre of Killorglin and partly outside the CSO boundary. This material alteration would encourage a pattern of development that is inconsistent with the implementation of Objective KCDP 4-61 of the County Development Plan to ensure sustainable development by directing new retail opportunities into town centres and consolidating, intensifying, and enhancing existing core retail areas, and RPO 151 of the RSES for the integration of land use and transportation and optimising sustainable travel integration within settlements.
- zones additional C2.1 Industrial / Enterprise / Employment land in an unserviced, remote location, outside the CSO boundary and Local Area Plan settlement boundary for Killorglin, and on the N70 national road where the maximum speed limit applies, and where the lands are partially located within flood zone A and B. The material alteration would encourage a pattern of development in a location which would not meet the criteria for designating employment zonings under section 9.6.1 of the County Development Plan (including NPO 72 of the NPF), and inconsistent with RPO 151 of the RSES for the integration of land use and transportation and optimising public transport and sustainable travel integration within settlements, Objectives KCDP 9-22, Objective KCDP 14-29, and Objective KCDP 14-30 of the KCDP 2022-2028 to protect the capacity and safety of national roads in compliance with the National Roads Guidelines and does not apply to section 2.5 of these guidelines, and RPO 116 of the RSES to avoid inappropriate development in areas at risk of flooding in accordance with The Flood Guidelines, and does not apply these guidelines.

No or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the planning authority has failed to implement the objectives of the County Development Plan and the RPOs of the RSES.

In making the Local Area Plan with the subject material alterations, the planning authority has made the plan contrary to the requirements of section 19(2) of the Act which requires local area plans be consistent with the objectives of the County

Development Plan, its core strategy, and with the objectives of the regional spatial economic strategy that applies to the area of the plan.

The factors that the Office has taken into account in forming this opinion are as follows:

- i. The core strategy and the objectives and policies of the County Development Plan, including Objective KCDP 3-6, Objective KCDP 4-1, Objective KCDP 4-61, Objective KCDP 9-22, Objective KCDP 14-29, Objective KCDP 14-30 and policies under section 6.2.3 and 9.6.1, which state:

**Objective KCDP 3-6**

*Zone land for residential purposes in accordance with the Tiered approach outlined in the National Planning Framework.*

**Objective KCDP 4-1**

*Support and facilitate the objectives and actions in Housing for All (HfA) to regenerate towns and villages, to tackle dereliction, vacancy, to deliver site assembly opportunities and to promote the sustainable development of land to achieve compact growth and increased population in these centres and to engage with the Land Development Agency (LDA), where appropriate, in the identification, planning and co-ordination of strategic, publicly owned land banks to achieve compact growth, sustainable development, and urban regeneration.*

**Objective KCDP 4-61**

*Facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in the Regional Towns, and ensure their sustainable development by consolidating, intensifying, and enhancing their existing core retail areas, and by directing new retail opportunities into town centres.*

**Objective KCDP 9-22**

*Ensure that Proposals for economic development, including those related to Strategic Economic Drivers in the Development Plan will be progressed*

*complementary to safeguarding the strategic function, safety and investment in the strategic national road network to date and in compliance with the provisions of the Section 28 Ministerial Guidelines 'Spatial Planning and National Roads Guidelines for Planning Authorities' (DoECLG, 2012)'.*

**Objective KCDP 14-29**

*Protect the capacity and safety of the National Road and Strategically Important Regional Road network in the County and ensure compliance and adherence to the provisions of official Government policy outlined in the Section 28 Ministerial Guidelines 'Spatial Planning and National Roads Guidelines for Planning Authorities' (DoECLG, 2012) in order to safeguard carrying capacity and safety of National Primary and Secondary Routes and associated national road junctions.*

**Objective KCDP 14-30**

*Avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to National Roads to which speed limits greater than 60 km/h apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.*

**Policy under sections 6.2.3**

*Support a sequential approach to residential development in which the first-choice location for new housing is within the built-up area of towns and villages, while maximising under-utilised infill and brownfield lands within town and village centres.*

**Policy under section 9.6.1**

*Compliance with the NPF (NPO 72) on a standardised, tiered approach that differentiates between zoned land that is serviced and that which is serviceable within the life of the plan.*

ii. Regional Policy Objectives RPO 35, RPO 116, and RPO 151

**RPO 35 Support for Compact Growth**

*Development Plans shall set out a transitional minimum requirement to deliver at least 30% of all new homes that are targeted in settlements other than the cities and suburbs, within their existing built-up footprints in accordance with NPF National Policy Objective 3c. This will be evidence based on availability and deliverability of lands within the existing built up footprints.*

**RPO 116 Planning System and Flood Risk Management**

*Consideration must be given to future appropriate land-use policies in accordance with the requirements of the Guidelines, “The Planning System and Flood Risk Management 2009”. Strategic and local flood risk assessments and plans should be prepared where appropriate, which should include consideration of potential impacts of flood risk arising from climate change. It is an objective to avoid inappropriate development in areas at risk of flooding and integrate sustainable water management solutions (such as SUDS, non-porous surfacing and green roofs) to create safe places in accordance with the Guidelines.*

**RPO 151 Integration of Land Use and Transport**

*The following principles of land use and transport integration will guide development [inter alia]:*

*d. New employment and residential development will be consolidated and intensified in a manner which renders it serviceable by public transport and ensures that it is highly accessible, by walking, cycling and public transport. Within the Metropolitan Areas of Cork, Limerick-Shannon and Waterford, except in limited planned circumstances, trip intensive developments or significant levels of development will not occur in locations which are not well served by existing or proposed high capacity public transport;*

*e. Land use development in smaller rural towns will optimise public transport and sustainable travel integration within settlements. Public transport*

*Interchange will be facilitated to encourage modal shift to public transport and sustainable travel between settlements and on approach to settlements. The strategic transport function of national roads will be maintained and protected in accordance with national policy.*

iii. The *Development Plans Guidelines*, which state inter alia:

Section 6.2.3 - Sequential Approach to Zoning for Residential Development:

*In undertaking the zoning function for new residential development at individual settlement scale, planning authorities are required to adopt a sequential approach which reflects the compact growth, utilisation of existing infrastructure and town regeneration national policy objectives of the NPF, further developing the Tiered Approach.*

*It is a policy and objective of these Guidelines that planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently.*

iv. The Flood Guidelines which 'require the planning system at national, regional and local levels to:

*Avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;*

*Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk.*

v. National Roads Guidelines which state:

Section 2.5 - Required Development Plan Policy on Access to National Roads

*Lands adjoining National Roads to which speed limits greater than 60 kmh apply: The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.*

- vi. The CE's Report on submissions on the material alterations to the draft Local Area Plan.
- vii. Matters generally within the scope of section 19 of the Act.
- viii. The Office's statutory obligations under the Act.

In light of the above, the Office is therefore of the opinion that the Local Area Plan has not been made in a manner consistent with its recommendations as set out in the submissions dated 1<sup>st</sup> March 2024, and that the decision of the Council results in the making of a Local Area Plan in a manner that is inconsistent with the County Development Plan of the area concerned, and as a consequence the use by the Minister of his functions to issue a direction under section 31 would be merited.

### **3. Recommendation to the Minister**

Having regard to section 31AO(7) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act taking such steps as to rectify the matter as set out in the draft direction to the planning authority accompanying this notice, i.e.:

Delete the following material alterations from the adopted Local Area Plan such that the subject lands revert to as indicated in the draft Local Area Plan:

- (i) Material Alteration 35 Site KG-102 – i.e. the subject lands revert to not zoned, from R1 New/Proposed Residential;
- (ii) Material Alteration 36 Site KG-104 – i.e. the subject lands revert to not zoned, from M1 Mixed;

- (iii) Material Alteration 38 Site KG-103 – i.e. the subject lands revert to not zoned, from R1 New/Proposed Residential;
- (iv) Material Alteration 18 Site CH-103 – i.e. the subject lands revert to not zoned, from R4 Strategic Residential Reserve;
- (v) Material Alteration 60<sup>7</sup> – i.e. the subject lands revert to not zoned, from C2.1 Industrial/Enterprise/Employment.

Please do not hesitate to contact the Office should you have any queries in relation to the above. Contact can be initiated through the undersigned or at [plans@opr.ie](mailto:plans@opr.ie).

Yours sincerely,



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**Niall Cussen**

Planning Regulator

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<sup>7</sup> Note, no site reference number refers.

**DRAFT DIRECTION IN THE MATTER OF SECTION 31**  
**OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**  
**Kenmare Municipal District Local Area Plan 2024-2030**

“Local Area Plan” means the Kenmare Municipal District Local Area Plan 2024-2030.

“Planning Authority” means Kerry County Council.

“RSES” means the Regional Spatial and Economic Strategy for the Southern Region.

The Minister at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (No.30 of 2000) (as amended) ("the Act") and consequent to a recommendation made to him by the Office of the Planning Regulator, hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Kenmare Municipal District Local Area Plan 2024-2030) Direction 2024.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Local Area Plan:
  - a) Delete the following material alterations from the adopted Local Area Plan such that the subject lands revert to as indicated in the draft Local Area Plan:
    - (i) Material Alteration 35 Site KG-102 – i.e. the subject lands revert to not zoned, from R1 New/Proposed Residential;
    - (ii) Material Alteration 36 Site KG-104 – i.e. the subject lands revert to not zoned, from M1 Mixed;
    - (iii) Material Alteration 38 Site KG-103 – i.e. the subject lands revert to not zoned, from R1 New/Proposed Residential;
    - (iv) Material Alteration 18 Site CH-103 – i.e. the subject lands revert to not zoned, from R4 Strategic Residential Reserve; and



- (v) Material Alteration 60<sup>1</sup> – i.e. the subject lands revert to not zoned, from C2.1 Industrial/Enterprise/Employment.

### **STATEMENT OF REASONS**

- I. The Local Area Plan as made includes material alterations to the draft Local Area Plan, which zone additional R1 New/Proposed Residential land in Killorglin inconsistent with the core strategy of the Kerry County Development Plan 2022-2028, and which zones additional R4 Strategic Residential Reserve in Cahersiveen.

These material alterations are located in peripheral and/or non-sequential locations, and/or unserviced locations, and/or outside the CSO boundary of Cahersiveen. The material alterations would individually and cumulatively encourage a pattern of development in particular locations which is inconsistent with Objective KCDP 4-1 of the Kerry County Development Plan 2022-2028 and RPO 35 of the RSES to implement compact growth, Objective KCDP 3-6 to zone land for residential purposes in accordance with the tiered approach to zoning, and the policy for sequential zoning (section 6.2.3) under the Kerry County Development Plan 2022-2028, and have provided no or no adequate reasons for not applying the policy and objective for sequential zoning under the Development Plans, Guidelines for Planning Authorities (2022) issued under section 28 of the Act.

- II. The Local Area Plan as made includes a material alteration to the draft Local Area Plan, which zones additional M1 Mixed Use / Opportunity Site in Killorglin. This material alteration is located a peripheral location, remote from the existing town centre of Killorglin and partly outside the CSO boundary. This material alteration would encourage a pattern of development that is inconsistent with the implementation of Objective KCDP 4-61 of the Kerry County Development Plan 2022-2028 to ensure sustainable development by directing new retail

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<sup>1</sup> Note, no site reference number refers.

opportunities into town centres and consolidating, intensifying, and enhancing existing core retail areas, and RPO 151 of the RSES for the integration of land use and transportation and optimising sustainable travel integration within settlements.

- III. The Local Area Plan as made includes a material alteration to the draft Local Area Plan, which zones additional C2.1 Industrial / Enterprise / Employment land in an unserviced, remote location, outside the CSO boundary and LAP settlement boundary for Killorglin, and on the N70 national road where the maximum speed limit applies, and where the lands are partially located within flood zone A and B. The material alteration would encourage a pattern of development in a location which would not meet the criteria for designating employment zonings under section 9.6.1 of the of the Kerry County Development Plan 2022-2028 (including NPO 72 of the National Planning Framework), and inconsistent with RPO 151 of the RSES for the integration of land use and transportation and optimising public transport and sustainable travel integration within settlements, Objectives KCDP 9-22, Objective KCDP 14-29, and Objective KCDP 14-30 of the of the Kerry County Development Plan 2022-2028 to protect the capacity and safety of national roads in compliance with the Spatial Planning and National Roads Guidelines (2012) and does not apply section 2.5 of these guidelines, and RPO 116 of the RSES to avoid inappropriate development in areas at risk of flooding in accordance with the Flood Risk Management Guidelines for Planning Authorities (2009), and does not apply these guidelines.
- IV. The Local Area Plan has not been made in a manner consistent with, and has failed to implement, the recommendations of the Office of the Planning Regulator under section 31 AO of the Act.
- V. In light of the matters set out at I to III above, the Minister is of the opinion that the Local Area Plan as made is inconsistent with the objectives of the Development Plan of the area, which is a requirement of section 19(2) of the Act.
- VI. The Local Area Plan as made is not consistent with the objectives of the RSES

contrary to section 19(2) and section 27(1) of the Act.

VII. In light of the matters set out at I, II III, above, the Local Area Plan is not in compliance with the requirements of the Act.

GIVEN under my hand,

Minister for Housing, Local Government and Heritage

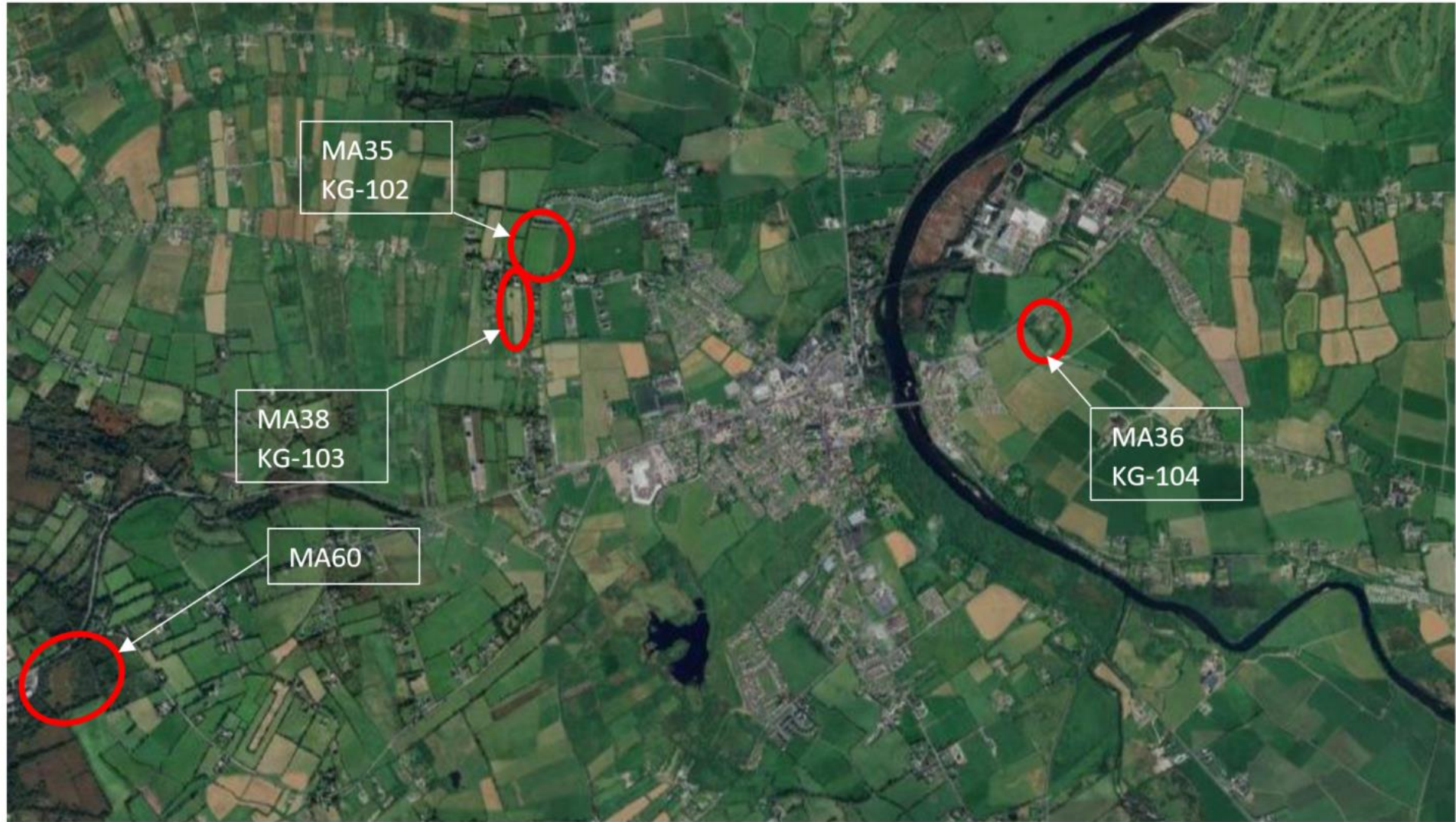
day of Month, year.



**Oifig an  
Rialaitheora Pleanála**  
Office of the  
Planning Regulator

## **Appendix 1: Mapping of Sites Identified in Draft Direction**

Aerial View of Killorglin with general location of subject sites indicated in red







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Rialaitheora Pleanála  
Office of the  
Planning Regulator

**Aerial View of Cahersiveen with general location of subject sites indicated in red**

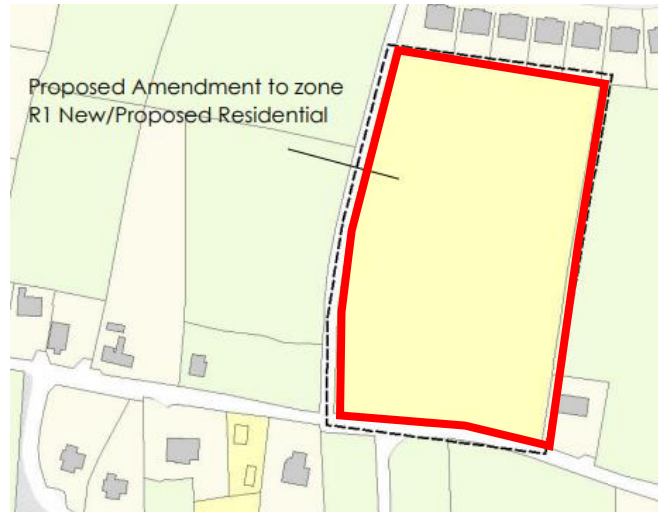


**Material Alteration 35 Site KG-102 – i.e. the subject lands revert to not zoned from R1 New/Proposed Residential**

**Draft Plan:**



**Material Alterations:**



**Aerial Photo:**

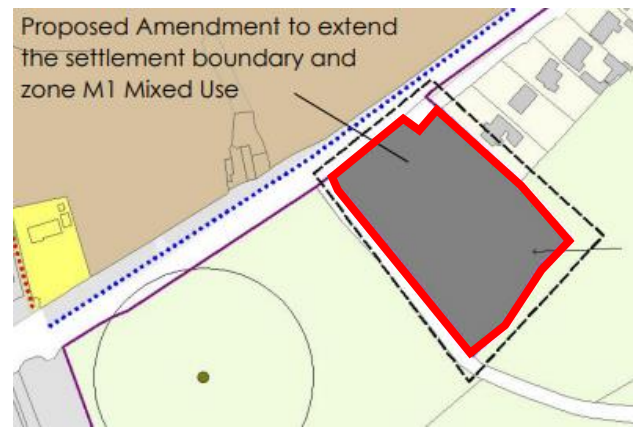


**Material Alteration 36 Site KG-104 – i.e. the subject lands revert to not zoned from M1 Mixed**

**Draft Plan:**



**Material Alterations:**



**Aerial Photograph:**



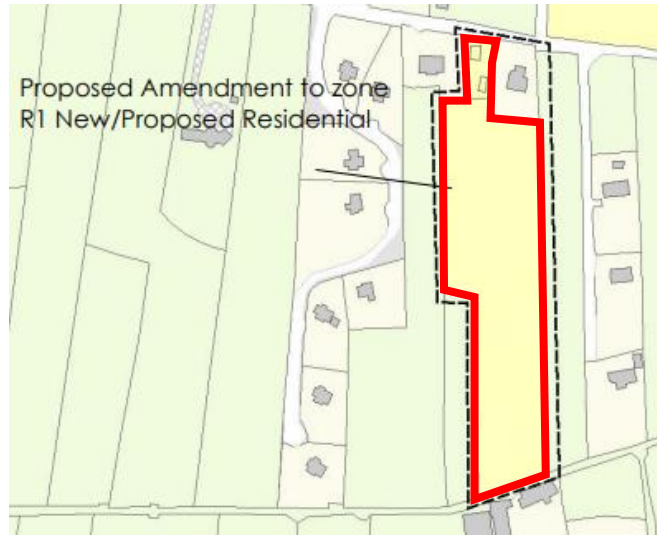


**Material Alteration 38 Site KG-103 – i.e. the subject lands revert to not zoned from R1 New/Proposed Residential**

**Draft Plan:**



**Material Alterations:**



**Aerial Photograph:**



**Material Alteration 18 Site CH-103 – i.e. the subject lands revert to not zoned from R4 Strategic Residential Reserve**

**Material Alterations:**



**Aerial Photograph:**



**Material Alteration 60 – i.e. the subject lands revert to not zoned from C2.1 Industrial/Enterprise/Employment.**

**Material Alterations:**



**Aerial Photograph:**





Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

15<sup>th</sup> May 2024

Mr. Darragh O'Brien TD,  
Minister for Housing, Local Government and Heritage,  
Department of Housing, Local Government and Heritage,  
Custom House,  
Dublin 1,  
D01 W6X0.

**Re: Clarification re: notice pursuant to section 31AO(7) of the Planning and  
Development Act 2000 (as amended) – Kenmare Municipal District Local Area  
Plan 2024-2030**

A chara,

I write further to the section 31AO(7) notice letter regarding the Kenmare Municipal District Local Area Plan 2024-2030 (the 'LAP'), which was issued by the Office of the Planning Regulator (the 'Office') to your office on Thursday, 9<sup>th</sup> May 2024.

Please be advised that there is a typo in the second paragraph on page two of the notice letter under point a) i. You will note that we included reference to the LAP settlement boundary and the CSO 2016 settlement boundary. However, reference to the CSO 2016 settlement boundary was included in error. Please note that this was an administrative error and does not reflect the evaluation of the OPR as set out in the remainder of the notice letter, and in the draft Direction.

For clarity, please find the final paragraph of point a)i below, with the correction highlighted:

*Specifically, the Local Area Plan zones land for residential development in peripheral locations, outside the Local Area Plan settlement boundary ~~and the majority of which is located outside the CSO 2016 settlement boundary~~. The majority of this land is not serviced or serviceable within the plan period, and leapfrogs unzoned and/or undeveloped zoned land and, in so doing, does not*



*apply the sequential approach to development to support compact growth of the town and its environs.*

Please do not hesitate to contact me should you have any queries.

Yours sincerely,



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**Niall Cussen**

Planning Regulator

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