



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

2nd August 2024

Alan Dillon TD,
Minister of State for Local Government and Planning,
Department of Housing, Local Government and Heritage,
Custom House,
Dublin 1,
D01 W6X0.

BY HAND AND BY EMAIL

Re: Notice pursuant to section 31AP(4) of the Planning and Development Act 2000 (as amended) – Kenmare Municipal District Local Area Plan 2024-2030

A chara,

I am writing to you pursuant to section 31AP(4) of *the Planning and Development Act 2000* (as amended) (the “Act”) in the context of the Kenmare Municipal District Local Area Plan 2024-2030 (the “Local Area Plan”). In particular, I write arising from the consideration by this Office of the Planning Regulator (the “Office”) of the following:

- a) the Notice of Intent to issue a Direction issued to Kerry County Council (the “Planning Authority”) by your office dated 23rd May 2024, and
- b) the report of the Chief Executive of the Planning Authority issued to the Office on 17th July 2024 on the submissions and observations received by the Planning Authority (the “CE’s Report”).

This Office has carefully considered the CE's Report.

The Office did not receive any submissions made directly by elected members of the Council to this Office.

Draft Direction

The draft Direction issued by the Minister contained a single part, as follows:

Teach na Páirce, 191-193A An Cuarbhóthar Thuaidh, Baile Átha Cliath 7, D07 EWW4

Park House, 191-193A North Circular Road, Dublin 7, D07 EWW4

T +353 (0)1 854 6700 | E info@opr.ie | W www.opr.ie

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 Use;*
 - (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 – i.e. the subject lands revert to not zoned, from C2.1 Industrial/Enterprise/Employment;*

and apply all necessary consequential updates to the text of the plan consistent with the forgoing.

Public Consultation on the Draft Direction

The public consultation on the draft Direction took place from 6th to 20th June 2024 inclusive. The CE's Report summarises the views of members of the public and the prescribed authorities that made submissions to the Planning Authority.

The CE's Report states that six (6) submissions were received in relation to the draft Direction during the statutory public consultation period; four (4) submissions opposing the draft Direction in relation to individual material amendments, and two (2) submissions supporting the draft Direction from Transport Infrastructure Ireland (TII) and the National Transport Authority (NTA).

The CE's Report also details a written submission received from Cllr Michael Cahill opposing the draft Direction in respect of MA 35, MA 36, MA 38, and MA 60.

You might please note the following:

- The Office received no direct submissions from or on behalf of elected members.
- The submissions received by the Planning Authority from the public opposing the draft Direction were as follows:
 - (i) MA 35 Site KG-102 (Daniel and Sheila O’Sullivan)
 - (ii) MA 36 Site KG-104 (Peter Keane)
 - (iii) MA 38 Site KG-103 (Fergal Griffin)
 - (v) MA 60 (William Browne).
- No submissions from the public were received by the Planning Authority in relation to the following:
 - (iv) MA 18 Site CH-103.
- The submission received by the Planning Authority from TII supports the draft Direction in respect of the Industrial/ Enterprise/ Employment zoned lands under (v) MA 60.
- The submission received by the Planning Authority from the NTA supports the draft Direction in respect of all items, specifically MA 35, MA 36, MA 38, MA 18 and MA 60.

Chief Executive’s Recommendation

Having considered each of the six submissions received by the Planning Authority through the statutory public consultation and the views expressed by the members of Kenmare Municipal District, the Chief Executive considers that the most appropriate course of action is to implement the draft Direction.

Consideration of Reasons

In respect of MA 35 Site KG-102 in Killorglin

One submission was received by the Planning Authority from Daniel and Sheila O’Sullivan ("the O'Sullivan submission") opposing the draft Direction in respect of MA

35 Site KG-102 (i.e. the subject lands revert to not zoned, from R1 New/ Proposed Residential).

The submission received by the Planning Authority from the NTA supports the draft Direction.

The Chief Executive agrees with the position of the Office in relation to this site as the Office's position accords with that as set out in the CE's Report received on 3rd April 2024 (CE's Report MA stage). The CE's Report states:

This site is outside of the settlement boundary as adopted with a significant quantum of unzoned lands between this site and the settlement boundary. It is considered that there are more suitable infill sites that should be developed first within the settlement boundary, closer to the town centre.

As the site is not serviced and is located outside of the town of Killorglin, it does not comply with Objective KCDP 3-6 of the Kerry County Development Plan 2022-2028.

A number of the reasons given for opposing the draft Direction in the O'Sullivan submission and by the elected members (as summarised in the CE's Report) are similar to the reasons given by the elected members for the decision to not comply with the recommendation of the Office when adopting the Local Area Plan, and were detailed in the section 31AO(5) notice received from the Planning Authority including:

- there is a shortage of zoned lands and a demand for housing;
- Killorglin is the only town in Mid-Kerry with sewerage capacity;
- there are nearby housing estates; and
- the area is within walking distance of the town centre, school and shops.

As set out in the section 31AO(7) Notice Letter to your office, these reasons were carefully taken into consideration by the Office in recommending the exercise of your function under the relevant provisions of section 31 of the Act, and the Office adopts the same rationale as set out in the 31AO(7) Notice Letter in response to those similar points raised again in submissions.

The following additional, or more detailed related reasons were raised in submissions:

- local people cannot buy a site or get planning permission;
- in order to facilitate development, there is a need to zone more land than is specifically required;
- issues associated with the road and lack of footpath can be dealt with by way of a planning condition;
- in the future it is felt that the town will develop in this direction; and
- Planning history of the site (planning applications in 1997 and 2000).

In relation to the lack of alternative housing for people in Killorglin and the need to zone more land than is specifically required, this matter was substantively addressed in the section 31AO(7) Notice Letter in relation to housing need. The housing supply target for the town (251 housing units) is set out in the Core Strategy of the Kerry County Development Plan 2022-2028 (“Development Plan”) adopted by the elected members in 2022.

Based on the Settlement Capacity Audit prepared as part of the Local Area Plan, the zoning objectives for Killorglin have the capacity to accommodate significantly more housing units than that target, ensuring that a sufficient supply of zoned land is provided and that choice for development potential is safeguarded. There is no evidence, therefore, to support the argument that the subject lands are required to meet housing demand in the area.

Furthermore, unlike the residential zoned lands the subject of the draft Direction (sites KG-102 and KG-103), all of those other R1 zoned lands in Killorglin are identified as serviced (Tier 1) and are therefore deliverable within the plan period.

In relation to a planning condition requiring the provision of a footpath along Laharn Road, no details are provided in terms of how this could be facilitated having regard to third party owned lands, road alignment etc. The Office also notes that there are no proposals for cycling, pedestrian or road improvements in the Local Area Plan that would serve this peripheral area outside the plan boundary.

In addition, the subject site does not have connectivity to the foul drainage network and the Office agrees with the Chief Executive that there are other more suitable infill sites that are adequately serviced, within the settlement boundary and closer to the town, and should be developed first in accordance with sequential development and the tiered approach to zoning.

In relation to the planning history on the site, the planning applications referenced are historic in nature and relate to a very different policy and legislative context.

Regarding the future development of the town, this is a matter for subsequent statutory plans beyond the current plan period. The Office agrees with the Chief Executive that *'the site is outside of the settlement boundary as adopted with a significant quantum of unzoned lands between this site and the settlement boundary'*.

Following consideration of the CE's Report, there is no planning or policy basis to amend the recommendation of this Office in respect of the draft Direction in relation to MA 35 Site KG-102.

In respect of MA 36 Site KG-104 in Killorglin

One submission was received by the Planning Authority from Peter Keane ("the Keane submission") opposing the draft Direction in respect of MA 36 Site KG-104 (i.e. the subject lands revert to not zoned, from M1 Mixed Use).

The submission received by the Planning Authority from the NTA supports the draft Direction.

The Chief Executive agrees with the position of the Office in relation to this site as the Office's position accords with that as set out in the CE's Report (MA stage). The CE's Report states:

Objective KCDP 4-42 as contained in the KCDP 2022-2028 states that it is the policy of the Council 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". A mixed-use development on this site would therefore not be in accordance with the provisions of the County

Development Plan in relation to the location of retail development. In addition, these lands are not sequential in relation to the development of Killorglin.

In addition, the Kenmare MD LAP 2024-2030 states 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". Retail development on this site which is located a significant distance outside of the town centre, would therefore contravene the LAP.

A number of the reasons given for opposing the draft Direction in the Keane submission and by the elected members (as summarised in the CE's Report) are similar to the reasons given by the elected members for the decision to not comply with the recommendation of the Office when adopting the Local Area Plan, and were detailed in the section 31AO(5) notice received from the Planning Authority including:

- suitable location for a retail development proximate to residential; and
- traffic upgrades/ TII investment in N70 at this location.

As set out in the section 31AO(7) Notice Letter to your office, these reasons were carefully taken into consideration by the Office in recommending the exercise of your function under the relevant provisions of section 31 of the Act, and the Office adopts the same rationale as set out in the 31AO(7) Notice Letter in response to those similar points raised again in submissions.

The following additional, or more detailed related reasons were raised in submissions:

- all sites between the town and Bansha should be zoned; and
- existing and proposed development creates a demand for a neighbourhood shop and a petrol station at this location.

In relation to these reasons, the Office notes that the CE's Report states that the submission in support of this material alteration is factually incorrect when it states that the site is 100m outside of the town centre zoning. The Killorglin town centre and associated town centre zoning is located on the other side of Laune Bridge, a distance of approximately 600 metres west of the site, which confirms the peripheral location of this site relative to the town centre. It further states that the nearby lands,

referred to in the submission as town centre, are in fact M4 Built Up Area comprising an existing cemetery and agribusiness store. In relation to the reference to a petrol station, the Office notes that such uses are Open to Consideration for M1 Mixed Use in the zoning matrix of the Development Plan. However, the Permitted in Principle uses include retail ('shop'). The Office is therefore obliged to assess the material alteration in this context and the objectives of the Development Plan, specifically Objective KCDP 4-61 to consolidate existing retail area, and RPO 151 integration of land use and transportation including the prioritisation of development within or contiguous with the existing built-up areas and focusing of trip intensive development – such as retail – into central locations.

Following consideration of the CE's Report, there is no planning or policy basis to amend the recommendation of this Office in respect of the draft Direction in relation to MA 36 Site KG-104.

In respect of MA 38 Site KG-103 in Killorglin

One submission was received by the Planning Authority from Fergal Griffin ("the Griffin submission") opposing the draft Direction in respect of MA 38 Site KG-103 (i.e. the subject lands revert to not zoned, from R1 New/ Proposed Residential).

The submission received by the Planning Authority from the NTA supports the draft Direction.

The Chief Executive agrees with the position of the Office in relation to this site as the Office's position accords with that as set out in the CE's Report (MA stage). The CE's Report states:

This site is located outside of the settlement boundary as adopted with a significant quantum of unzoned lands between this site and the settlement boundary. It is considered that there are other more suitable infill sites that should be developed first within the settlement boundary, closer to the town centre.

As the site is not serviced and is located outside of the town of Killorglin, it does not comply with Objective KCDP 3-6 of the Kerry County Development Plan 2022-2028, obtaining planning permission for a residential development on this

site would be extremely difficult as the site fails to meet the policies of the Council regarding residential development, it is therefore unrealistic that the zoning of this site would address housing issues.

A number of the reasons given for opposing the draft Direction in the Griffin submission and by the elected members (as summarised in the CE's Report) are similar to the reasons given by the elected members for the decision to not comply with the recommendation of the Office when adopting the Local Area Plan, and were detailed in the section 31AO(5) notice received from the Planning Authority including:

- there is a shortage of zoned lands and a demand for housing;
- Killorglin is the only town in mid Kerry with sewerage capacity;
- site is adequately serviced; and
- the area is within walking distance of the town centre, school and shops.

As set out in the section 31AO(7) Notice Letter to your office, these reasons were carefully taken into consideration by the Office in recommending the exercise of your function under the relevant provisions of section 31 of the Act, and the Office adopts the same rationale as set out in the 31AO(7) Notice Letter in response to those similar points raised again in submissions.

The following additional, or more detailed related reasons were raised in submissions:

- local people cannot buy a site or get planning permission;
- in order to facilitate development, there is a need to zone more land than is specifically required;
- the site is of a similar size and dimension to other sites in its immediate vicinity which have been developed for housing;
- issues associated with the road and lack of footpath can be dealt with by way of a planning condition;
- any road issue can be easily addressed by conditioning the widening of the road at this location and making it much safer for all road users, cyclists, motorists and pedestrians;

- the site is served by access to a public roadway and mains water supply with an agreement in place with a neighbouring landowner for a connection to the public sewer at Laharan; and
- in the future it is felt that the town will develop in this direction.

In relation to the lack of alternative housing for people in Killorglin and the need to zone more land than is specifically required, the Office reiterates the considerations set out in respect of MA 35 Site KG-102 above.

The Office further notes, and agrees with the comment in the CE's Report that the site fails to meet the policies of the Planning Authority regarding residential development, and it is therefore unrealistic that the zoning of this site would address housing issues.

In relation to a planning condition requiring the provision of a footpath along Laharn Road and/or road widening, no details are provided in terms of how this could be facilitated having regard to third party owned lands, road alignment etc. The Office also notes that there are no proposals for cycling, pedestrian or road improvements in the Local Area Plan that would serve this peripheral area outside the plan boundary.

The Office notes that the Griffin submission states that an agreement is in place with a neighbouring landowner for a connection to the public sewer at Laharan. As set out in the section 31AO(7) Notice Letter, Uisce Éireann had identified that network extensions may be required for this site. The CE's Report (MA stage) also stated that the site does not have connectivity to the foul drainage network. This position is reiterated in the CE's Report, which states that *'the site is not serviced and is located outside the town of Killorglin'*.

Notwithstanding the landowner's ability to secure agreement from a third party to facilitate connection to the public sewer, the issues regarding road and mobility infrastructure to serve this peripheral location remain, as does the fact that there are other more suitable infill sites that should be developed first within the settlement boundary, closer to the town, in accordance with sequential development and the tiered approach to zoning.

In relation to existing housing developments in the vicinity, these developments were subject to consideration in respect of a different legislative and policy context which predated the National Planning Framework, the Regional Spatial and Economic Strategy (RSES) for the Southern Region, and the Development Plan.

Regarding the future development of the town, this is a matter for future statutory plans beyond the current plan period.

Following consideration of the CE's Report, there is no planning or policy basis to amend the recommendation of this Office in respect of the draft Direction in relation to MA 38 Site KG-103.

In respect of MA 18 Site CH-103 in Cahersiveen

No submissions were received by the Planning Authority opposing the draft Direction in respect of MA 18 Site CH-103 (i.e. the subject lands revert to not zoned, from R4 Strategic Residential Reserve).

The submission received by the Planning Authority from the NTA supports the draft Direction.

The Chief Executive agrees with the position of the Office in relation to this site as the Office's position accords with that as set out in the CE's Report (MA's stage). The CE's Report states:

This site is located over 1 km from the centre of Cahersiveen outside of the settlement boundary. This site is located over 200 metres outside of the settlement boundary, and notwithstanding its proximity to existing residential and other mixed uses, it is considered that there are other more suitable infill sites within the town that should be developed first.

Given the level of R1 New/Proposed Residential and R4 Strategic Residential Reserve lands zoned in the core of the town, it is considered that there are sufficient lands zoned to cater for the long-term residential needs of Cahersiveen.

A number of the reasons given for opposing the draft Direction by the elected members (as summarised in the CE's Report) are similar to the reasons given by the

elected members for the decision to not comply with the recommendation of the Office when adopting the Local Area Plan, and were detailed in the section 31AO(5) notice received from the Planning Authority including:

- proximity to secondary school and access to services; and
- the lands are between a housing estate and the town centre.

As set out in the section 31AO(7) Notice Letter to your office, these reasons were carefully taken into consideration by the Office in recommending the exercise of your function under the relevant provisions of section 31 of the Act, and the Office adopts the same rationale as set out in the 31AO(7) Notice Letter in response to those similar points raised again in submissions.

The following additional, or more detailed related reasons were raised in submissions:

- there is a shortage of zoned lands and a demand for housing in Cahersiveen; and
- there is a requirement that 80% of R1 lands have to be built before development can occur on these lands. This scenario is unlikely during the lifetime of the plan. These lands are for the future development of housing.

The housing supply target for the town (101 housing units) is set out in the Core Strategy of the Development Plan adopted by the elected members in 2022. Based on the Settlement Capacity Audit prepared as part of the Local Area Plan, the R1 zoning objectives for Cahersiveen have the capacity to accommodate well in excess of that target, ensuring that a sufficient supply of zoned land is provided and that choice for development potential is safeguarded.

The subject lands are zoned R4 Strategic Residential Reserve, which the elected members correctly identify as only coming forward when 80% of R1 lands have been developed. The elected members also argue that this scenario is unlikely during the lifetime of the Local Area Plan.

There is no evidence, therefore, to support the argument that the subject lands would, or are required to meet housing demand in the area.

Following consideration of the CE's Report, there is no planning or policy basis to amend the recommendation of this Office in respect of the draft Direction in relation to MA 18 Site CH-103.

In respect of MA 60 Zoning Objective C2.1 outside Killorglin

One submission was received by the Planning Authority from William Browne ("the Browne submission") opposing the draft Direction in respect of MA 60 zoning objective C2.1 (i.e. the subject lands revert to not zoned, from C2.1 Industrial/Enterprise/Employment).

The submission received by the Planning Authority from the NTA supports the draft Direction.

The submission received by the Planning Authority from TII supports the draft Direction, and states that TII's observations remain as set out in the Authority's submission of 27th February 2024. This submission was referenced in the section 31AO(7) Notice Letter to the Minister.

The Chief Executive agrees with the position of the Office in relation to this site as the Office's position accords with that as set out in the CE's Report (MA stage).

The CE's Report states:

There is a significant quantum of serviced lands zoned C2.1 Industrial/Enterprise/ Employment within the town of Killorglin. These lands which are located within the town boundary are considered sufficient to meet the employment/enterprise needs for Killorglin over the lifetime of the LAP.....

This site would not also meet the criteria for designating employment zonings as set out in Section 9.6. 1 of the Kerry County Development Plan 2022-2028. The site is not serviced, nor cannot be reasonably considered that it can be during the lifetime of the plan due to its remote location from Killorglin.

As raised by TII, the site is located on the N70, a National Secondary Road, where the maximum speed limit applies. The relevant provisions of the Kerry County Development Plan 2022-2028 with regards to access onto national roads is 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 km/h apply. This provision applies to all categories of development. ... The proposal to zone these lands would, therefore, contravene the provisions of the Development Plan in relation to access onto National Roads.

Notwithstanding the proposal to utilise the local road to access the site, Objectives KCDP 14-29 and KCDP 14-30 as contained in the Kerry County Development Plan 2022-2028 still apply.

A watercourse/stream runs along the eastern site boundary, along with smaller watercourses to the north, south and east. The National Indicative Fluvial Mapping (NIFM) indicates that the eastern part of the site is at risk of flooding. A Justification has not been prepared in support of this material alteration. As this site is not within or adjoining a town or city core it would not satisfy the criteria of a Justification Test and it would not be appropriate to complete one.

A number of the reasons given for opposing the draft Direction in the Browne submission and by the elected members (as summarised in the CE's Report) are similar to the reasons given by the elected members for the decision to not comply with the recommendation of the Office when adopting the Local Area Plan, and were detailed in the section 31AO(5) Notice Letter received from the Planning Authority including:

- there is a shortage of this type of zoning in the Killorglin/ Mid-Kerry region and in the LAP;
- the site is beside existing businesses and would resulting in clustering of commercial development in one area; and
- the type of development that could be facilitated on this site would not be suitable for a town centre – e.g. uses/machines with associated noise and traffic movements.

As set out in the section 31AO(7) Notice Letter to your office, these reasons were carefully taken into consideration by the Office in recommending the exercise of your function under the relevant provisions of section 31 of the Act, and the Office adopts

the same rationale as set out in the section 31AO(7) Notice Letter in response to those similar points raised again in submissions.

The following additional, or related reasons were raised in submissions:

- Killorglin is the only place in the Mid-Kerry region that has wastewater treatment capacity;
- lands are adjacent to the town boundary;
- the development management process will ensure that appropriate development is delivered on the site;
- the site can be accessed via a local road rather than the N70;
- Industrial/ Enterprise lands in the town are in the ownership of one company which impacts the opportunities for new business; and
- moving businesses into the town centre is not ideal for certain industries, particularly those focused on recycling which are better located away from town centres.

In relation to wastewater treatment capacity, while it is the case that there is capacity in the Killorglin wastewater treatment plant, the Uisce Éireann submission confirms that the site is not connected to the sewerage network, and the Office notes the Chief Executive's comment that the site is not serviced and it cannot be reasonably considered that it can be serviced during the lifetime of the Local Area Plan due to its remote location from Killorglin.

The Office can also confirm that the lands are not, contrary to what is stated in submissions, adjacent to the town boundary. The CE's Report states that the site is located 3km outside of the settlement boundary. The site is also some 1.8km from the CSO boundary.

Regarding the reason that the development management process will ensure that appropriate development is delivered on the site, this might most relevantly refer to the issues of access from the N70 and flood risk management.

In relation to access to the site, the land is located along the N70 national secondary road where the maximum speed limit applies. A very short section of the northern site boundary adjoins a local road before the junction with the N70. However, details

of how access from the local road could be facilitated are not clear and, given its proximity to the junction with the N70, the matters previously raised in respect of the capacity and safety of the national road remain valid. Furthermore, the Strategic Flood Risk Assessment shows that this part of the site is located in an area at risk of flooding.

In relation to flood risk management, the key message of the *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines) is that flood risk should in the first instance be managed through the statutory plan making process to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management. The matter was previously addressed in the section 31AO(7) Notice Letter.

In relation to the land ownership of Industrial/ Enterprise lands in the town, the CE's Report states that there is a significant quantum of serviced lands zoned C2.1 Industrial/ Enterprise/ Employment within the settlement boundary which are considered sufficient to meet the employment/ enterprise needs of Killorglin over the lifetime of the Local Area Plan.

In relation to concerns regarding moving existing businesses into the town centre, the zoning objective does not affect permitted uses or development. The matter of expansion of existing uses was previously addressed in the section 31AO(7) Notice Letter.

Regarding the argument that certain uses particularly those focused on recycling would not be appropriate for town centre sites, this does not in itself provide a sufficient justification to zone these remote and unserviced lands, and in particular having regard to the location on the N70 national road and on lands at risk of flooding. There is no evidence that such uses cannot be provided for at a location that is consistent with the Country Development Plan and RSES, and having regard to the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) and the Flood Guidelines.

Following consideration of the CE's Report, there is no planning or policy basis to amend the recommendation of this Office in respect of the draft Direction in relation to MA 60 zoning objective C2.1.

Recommendation

In light of the above and for the reasons given in our section 31AO(7) Notice Letter dated 9th May 2024, the Office remains of the view, as set out in this notice letter, that the Local Area Plan has been made in a manner that is inconsistent with the recommendations of the Office, inconsistent with the Kerry County Development Plan 2022-2028, and as a consequence the use by the Minister of his or her functions to issue a direction under section 31 would be merited to ensure that the Local Area Plan sets out an overall strategy for proper planning and sustainable development.

Having regard to section 31AP(4)(a) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act to issue the Direction as per the attached proposed final Direction.

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.

Yours sincerely,



Niall Cussen

Planning Regulator

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 of State 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 the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2024 (S.I No. 234 of 2024), 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 Use,
 - (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 – i.e. the subject lands revert to not zoned, from C2.1 Industrial/Enterprise/Employment,

and apply all necessary consequential updates to the text of the plan consistent with the foregoing.

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 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 the planning authority has provided no or no adequate reasons for not applying the policy and objective for sequential zoning contained in the *Development Plans, Guidelines for Planning Authorities* (2022) issued by the Minister 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 an additional M1 Mixed Use / Opportunity Site in Killorglin. This material alteration is located in 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 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 does 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 Planning System and 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 31AO 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. The Minister is of the opinion that the Local Area Plan as made is not consistent with National Policy Objectives 33 and 57 of the National Planning Framework.
- VIII. The Minister is of the opinion that the Local Area Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- IX. The Local Area Plan is not in compliance with the requirements of the Act.

GIVEN under my hand,

Minister of State for Local Government and Planning

day of Month, year.