

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

to the

Proposed Variation No. 4

of the

Killarney Town Development Plan
2009–2015 (as extended)



*Kerry County Council
Planning Policy Unit*

December 2018

1. Variation no.4 to the Killarney Town Development Plan 2009-2015

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

The Killarney Town Development Plan 2009-2015 was adopted by the former Town Council on the 23rd March 2009. The Plan was extended in accordance with Section 11 of the Planning & Development Act 2000 (as inserted by Section 28 of the Electoral, Local Government and Planning and Development Act 2013).

2. Public Consultation

In accordance with Section 13(2) of the Planning and Development Act 2000 (as amended) Notice of the proposed Variation, SEA environmental Report, the Habitats Directive Assessment/ Natura Impact Report and the Strategic Flood Risk Assessment were published in a local newspaper and invited observations and submissions. Copies of the proposed Variation and Environmental Reports were placed on display for public inspection from **3rd May to 15th June 2018 (both dates inclusive)**. An open day for members of the public was held in the Killarney Library on the 24th May 2018.

3. Statutory Bodies

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

4. Submissions Received

There were 63 number of submissions received during the public consultation period relating to the draft proposed Variation no.4.

The Chief Executive's Report and recommendations on submissions were presented and considered at the County Council Meeting held on the 17th September 2018. The proposed material alterations/amendments were approved by the Elected Members and were out for public consultation **between Thursday 4th October and Monday 5th November 2018**.

The material alterations were advertised in the Kerry's Eye newspaper on Thursday 4th October 2018. **13 no.** submissions on the proposed material alterations were received during the consultation period.

5. Environmental Assessments

5.1 Strategic Environment Assessment (SEA)

Further to the SEA of the material alterations of the proposed variation no. 4 to the Killarney Town Development Plan 2009-2015, as detailed in the SEA ER Addendum report; the proposed modifications to the material alterations have been assessed. Two potential significant effects on the environment were identified from the proposed material alterations. One proposed material alteration (No 27) was mitigated via the addition of a new objective. This objective and the addition of a second new objective from the appropriate assessment of the material alterations mitigated effects identified. Proposed material alteration no 28 was also identified as having a possible significant effect on environment. It is recommended that the proposed change to zoning in the material alteration reverts back to G3 (Landscape Protection).

On adoption of the proposed variation no. 4, an SEA Statement will be produced which will summarise the SEA of the proposed variation no.4 of the Killarney Town Development Plan 2009-2015 in accordance with the Planning and Development 2001 Regulations, as amended.

5.2 Habitats Directive Assessment (HDA)

A HDA is an assessment of the potential for impact on Natura 2000 sites which are nature conservation sites of international importance. A Combined HDA was undertaken for the proposed 4th Variation of the Killarney Town Development Plan 2009-2015 (as extended) and the proposed Tralee Municipal District Local Area Plan 2018-2024. This approach facilitated the assessment of potential cumulative and in combination effects. The HDA reports prepared by the Environmental Assessment Unit are adopted as those of Kerry County Council.

5.2.1 HDA recommendations

The HDA Addendum report dated September 2018 which incorporated an assessment of the proposed material alterations to the MDLAP and 4th Variation, recommended the following in respect of Material Alteration No 27 to the proposed 4th Variation:- that either (a) the land use zoning revert back to a G3 Landscape Protection Zoning as outlined in the draft variation or (b) that the following 'mitigation' be included as a development objective for the lands in question.

'A Natura Impact Statement, incorporating a Lesser Horseshoe Bat survey and impact assessment is required to be undertaken by a suitably qualified individual, in support of any development proposal for the lands in question. Proposals which would either directly or indirectly result in the loss of functionally linked habitat of importance to the Killarney National Park McGillycuddy Reeks and Caragh River Catchment SAC will not be permitted'

The CE report on the submissions received for the proposed material alterations to the 4th Variation to the Killarney Town Development Plan recommends inclusion of the above development objective as a suitable mitigation measure.

5.2.2 HDA Determination

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

5.2.3 Reasons for Determination

- The land use plan together with the Kerry County Development Plan 2015-2021 (as varied) and the Killarney Town Development Plan 2009-2015 (as varied and extended) contain policies and objectives safeguarding nature conservation interests.
- The relatively benign nature of the proposed land use plans from a Habitats Directive Assessment point of view
- The development related land use zonings are generally removed from Natura 2000 sites and the proposed development of same as set out in the plan is not likely to either directly or indirectly impact on Natura 2000 sites.
- Proposals for development within 'Existing Residential/Town/Village Centre Area/Built Up Areas' (R2/M2/M4 land use zonings) will be considered taking into account potential for impact on sites of nature conservation importance. This is expressly stated within the land use zoning provisions
- Policies and objectives contained within the plan will either:- not lead to development, are intended to protect the natural environment, including biodiversity, are intended to conserve or enhance the natural, built or historic environment and are unlikely to have an effect on a Natura 2000 site, will positively steer development away from Natura 2000 sites and associated sensitive areas, positively make provision to ensure that implementation will not have a significant effect or adverse effect on the integrity of a Natura 2000 site, and or have been formulated using a caveat or conditional approach requiring, where necessary, a case by case environmental assessment / HDA.

6. Additions to the text of the Killarney Town Development Plan 2009-2015 and proposed variation no. 4 are in **bold italics** with deletions in ~~strikethrough~~.

Written Submission No.1

**Dept of Housing, Planning & Local
Government**

Submission:

The Department acknowledges the large body of work that the Council have had to undertake in the preparation of Municipal District Plans and Variations. Kerry County Council is to be commended in appropriately executing the Department's recommendations. The Council is reminded that the Killarney Town Development Plan will need to be holistically revisited after the Regional Spatial & Economic Strategy has been prepared.

Response;

Submission noted and welcome.

Recommendation:

No amendment to proposed variation.

Written Submission No.2:

Environmental Protection Agency

Submission:

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

Response:

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

Recommendation:

No amendment.

Written Submission No.3:

**Transport Infrastructure Ireland
(TII)**

Submission:

The submission relates to a number of the proposed Amendments;

Amendment 24; regarding the multi-storey carparking facilities at Mission road/beech Road.

The TII recommends that all development proposals are appropriately assessed to ascertain the implications of traffic generation on the national road network and junctions.

Amendment 27; regarding the zoning of lands as C6 north of the N22 at Park.

TII states that it is critical that the operational efficiency, carrying capacity and safety of the existing national routes are protected. TII requests that the Council have regard to the Retail Planning Guidelines 2012 which has an explicit presumption against large out of town retail centres located adjacent or close to national roads.

Amendment 28; regarding the R4 zoning along the N22.

The TII requests that a road safety audit be carried out in order to limit the proliferation of entrances in this 60kmh zone. TII recommends that this zoning be reviewed to ensure compliance with official policy.

Response:

Kerry County Council will ensure that all developments comply with the Spatial Planning and National Roads Guidelines (2012) and in particular sections 2.5, 2.7 and 2.11. A full traffic impact assessment will be undertaken to ascertain the implications of traffic generation, resulting from any development proposal under the zoning matrix. Out of town retail developments cannot be permitted on lands zoned C6 Industrial/enterprise.

Recommendation:

No amendment to the proposed variation.

Written Submission No.4**Con Duggan**

Submission:

The submission relates to Amendment no 25, which is a site located on Ross Road where it is proposed to amend the zoning from R2 to G1 Open Space. It is stated that the site is in private ownership which has not been taken in charge by the Council. It is suggested that the site be partially zoned as an open space and residential to accommodate 2 dwellings.

Response

Given the planning history of the site it is considered that the partial use of this site for residential use would seriously injure the amenities of the area. It is considered that the amenity qualities of a smaller open space area would be inferior in both quantitative and qualitative terms.

Recommendation:

No amendment to the proposed variation.

Written Submission No.5**Diarmuid Mangan**

Submission:

The submission relates to Amendment no 22, which welcomes the changing of zoning from S1(educational)/M4 to R1 at Rookery Road.

Response:

Submission noted.

Recommendation:

No amendment to proposed variation.

Written Submission No.6: GVA Planning

Submission:

The submission is made on behalf of Tesco Ireland Ltd. The submission relates to Amendment no 24, which relates to multi storey parking facilities at Mission Rd/Beech Rd. The submission welcomes the amendment and further requests that the Local Authority carefully consider whether it would be more appropriate to remove the opportunity site designation from the Mission Road/Beech Road site.

Response:

A number of opportunity site have been identified, the development of which are of prime importance to the further economic regeneration and urban fabric enhancement of the town. It is proposed to designate the Mission Road site as an opportunity site in order to sustainably development this town centre brownfield site for commercial and residential use. The opportunity site designation further incentivises the redevelopment by providing a reduction in any development contributions associated with all development.

Recommendation:

No amendment to proposed variation.

Written Submission No.7

Michael O'Connor

Submission:

The submission relates to a site on Upper Park Road. It states that planning permission has been granted on the site for a residential development (16/695). It is requested that the proposed G3 zoning reflect the permitted open space area.

Response:

The submission does not relate to a specific material alteration. It should be noted that the G3 zoning takes the open space into consideration.

Recommendation:

No amendment to proposed variation.

Written Submission No.8:

Thomas & Susan Tong

Submission:

The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

Response;

Submission noted.

Recommendation:

No amendment to proposed variation.

Written Submission No.9: John & Frances Carroll

Submission:

The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

Response;

Submission noted.

Recommendation:

No amendment to proposed variation.

Written Submission No.10: Margaret McAuliffe

Submission:

The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

Response;

Submission noted.

Recommendation:

No amendment to proposed variation.

Written Submission No.11: Gerry & Cauty Coakley

Submission:

The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

Response;

Submission noted.

Recommendation:

No amendment to proposed variation.

Written Submission No.12: Noel Ryan & Others

Submission:

The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

Response;

Submission noted.

Recommendation:

No amendment to proposed variation.

Written Submission No.13: Joan Ryan

Submission:

The submission is made on behalf of Joan Ryan and others. The submission relates to Amendment no.28, which amends the zoning of lands from G3 (Landscape Protection) to R4 Strategic Residential Reserve. The submission requests that these sites be rezoned as R1 Proposed Residential. It states that the material amendment contained a clerical error, and this should be rectified.

Response:

These sites are located on the N22 National Primary Road in a mature sylvan setting. The proposed Amendment no.28, amends the zoning of lands from G3 (Landscape Protection) to R4 Strategic Residential Reserve.

Recommendation:

No amendment to proposed variation.

Recommendations arising from the Habitats Directive Assessment / Natura Impact Report Addendum Report & SEA Environmental Report Addendum;

It is concluded that provided the following recommendation in relation to proposed Material Alteration No 27 to the proposed Variation to the Killarney Town Plan, is adhered to that there will be no adverse impact on the integrity of Natura 2000 sites arising from Variation Number 4 to the Killarney Town Development Plan 2009-2015 (Variation number 4) or from the Killarney Municipal District Local Area Plan 2018-2024.

It is recommended in the HDA that the following ‘mitigation’ be included as development objectives for the lands in question.

Natural Environment	
Objective No:	It is an objective of the Council to;
KY-PK-1;	Ensure that a Natura Impact Statement, incorporating a Lesser Horseshoe Bat survey and impact assessment is required to be undertaken by a suitably qualified individual, in support of any development proposal for the lands in question. Proposals which would either directly or indirectly result in the loss of functionally linked habitat of importance to the Killarney National Park McGillycuddy Reeks and Caragh River Catchment SAC will not be permitted

In addition, the SEA of Material Alteration No 27 to the proposed Variation to the Killarney Town Plan, recommends the following new objective:

Natural Environment	
Objective No:	It is an objective of the Council to;
KY-PK-2;	Ensure that any proposal to develop the site should include a: <ul style="list-style-type: none"> • Landscape and visual impact assessments, • Traffic Impact Assessment addressing any impacts on the existing N22/Killarney by-pass from the proposed development, • An Ecological Impact Assessment, and • An assessment under Article 6 of the Habitats Directive as outlined in Objective no KY-PK-1.

Summary of the Proposed Modifications to the amendments/material alterations;

Modification 1:

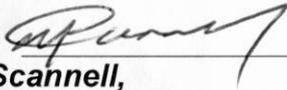
Include the following objective in section 2.8;

Natural Environment	
Objective No:	It is an objective of the Council to;
KY-PK-1;	Ensure that a Natura Impact Statement, incorporating a Lesser Horseshoe Bat survey and impact assessment is required to be undertaken by a suitably qualified individual, in support of any development proposal for the lands in question. Proposals which would either directly or indirectly result in the loss of functionally linked habitat of importance to the Killarney National Park McGillycuddy Reeks and Caragh River Catchment SAC will not be permitted

Modification 2:

Include the following objective in section 2.8;

Natural Environment	
Objective No:	It is an objective of the Council to;
KY-PK-2;	Ensure that any proposal to develop the site should include a: <ul style="list-style-type: none"> • Landscape and visual impact assessments, • Traffic Impact Assessment addressing any impacts on the existing N22/Killarney by-pass from the proposed development, • An Ecological Impact Assessment, and • An assessment under Article 6 of the Habitats Directive as outlined in Objective no; KY-PK-1.

Signed: 
Michael Scannell,
Director of Services / Stiúirthóir Seirbhísí,
Economic & Community Development /
Forbairt Eacnamaíochta & Pobail

Date: 3/12/2018