

# FINDINGS OF NO SIGNIFICANT EFFECTS REPORT

of the

Listowel/Ballybunion Functional Area  
Local Area Plan (FALAP) (2013-2019)  
and related 10<sup>th</sup> Variation of the Kerry  
County Development Plan (2009-2015)



IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 6  
OF THE  
EU HABITATS DIRECTIVE 92/43/EEC

July 2013

# 1 Finding of No Significant Effects Report

## 1.1 Introduction

Kerry County Council is currently preparing a local area plan for the functional areas of Listowel/Ballybunion. This local area plan contains an overall strategy for the development of the functional areas and a review of the settlements based on this strategy and consistent with that of the current County Development Plan for Kerry. A related / complementary 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015 is also being prepared.

The reason for the proposed 10<sup>th</sup> variation to the KCDP is to incorporate the provisions of the Listowel/ Ballybunion Functional Areas Local Area Plan 2013-2019 which will amend the zoning of lands, at and adjacent to the settlements to reflect the provisions of the plan (Part A), to rezone lands zoned residential in the environs of Listowel to Rural General (Part B), and to replace Map 8.8 in the CDP with a new Map and insert additional text into Objective INF 8-21 (Part C).

In accordance with EU legislation a Habitats Directive Assessment under Article 6 of the Habitats Directive 92/43/EEC ran in parallel with the drafting of the plan. The aim of the HDA was to assess if the implementation of the plan was likely to have a significant effect individually or in combination with other plans or projects on Natura 2000 sites. A Strategic Environment Assessment (SEA) was also undertaken and an Environmental Report (ER) produced. The draft Plan, SEA Environmental Report (ER) and Habitats Directive Assessment (HDA) were subsequently placed on public display from February 20<sup>th</sup> until April 5<sup>th</sup>, 2013. Nineteen submissions were received.

All of these submissions were outlined in a County Managers Report (CMR) which was issued to the members of Kerry County Council on May 20<sup>th</sup>, 2013. The CMR was prepared as part of the statutory procedure for preparing a local area plan. The CMR lists the persons or bodies who made submissions or observations; summarises the issues raised by the persons or bodies and gives the response of the manager to the issues raised. The CMR included recommendations on material alterations to the plan. In total 14 material alterations were made.

Following the May 20<sup>th</sup>, 2013 meeting the manager determined that in accordance with Section 20(3)f of the Planning and Development Act, as amended, that a Strategic Environmental Assessment and a Habitats Directive Assessment was required to be carried out on the proposed material alterations. A Strategic Environmental Assessment and a Habitats Directive Assessment was also required for the proposed 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015.

Following the completion of these assessments, the material alterations and 10<sup>th</sup> variation were put on public display from June 5<sup>th</sup> until July 4<sup>th</sup>, 2013. An *SEA Environmental Report Addendum of the Proposed Material Alterations to the Listowel/Ballybunion Functional Area Local Area Plan 2013-2019 & for the related 10<sup>th</sup> Variation to the Kerry County Development Plan 2009-2015* and a *Habitat Directive Assessment of the Draft Listowel/Ballybunion Functional Area Local Area Plan 2013-2019 and of the related / complementary variation to the Kerry County Development Plan 2009-2015* also went on public display during this period. In total

7 no. submissions on the proposed amendments to material alterations were received during the consultation period and 6 no. submissions on the 10<sup>th</sup> variation.

Two County Manager Reports were prepared, one for submissions received for the draft plan and the second on the related 10<sup>th</sup> variation. Both CMRs were presented to the Council on the July 15<sup>th</sup>, 2013. The CMR on the proposed material alterations to the draft plan outlined 5 proposed modifications arising from the second phase of public consultation. The plan was subsequently adopted at that meeting held on July 15<sup>th</sup>, 2013. The Elected Members adopted a total of 5 amendments to the material alterations following this meeting. It should be noted that one of those adoptions went against the recommendations in the County Managers Report. This is detailed further in this report.

The CMR on the proposed 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015 outlined no proposed modifications arising the second phase of public consultation. The variation was subsequently adopted at that meeting held on July 15<sup>th</sup>, 2013.

This document (FONSE) of the plan/10<sup>th</sup> variation forms the final stage of the requirements for the appropriate assessment of the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019)/related 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015 as adopted on July 15<sup>th</sup>, 2013. The requirements of this report are detailed in Section 3.3.6 of the DoEHLG *Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities*. It is a concluding document where the project / plan is not considered likely to have significant effects on Natura 2000 sites following the adoption of the plan. It should be noted that this report is written in parallel with an SEA Statement. The SEA Statement is required under S.I No. 435 of 2004 and S.I. No. 436 of 2004, as amended.

Plans or programs can only be permitted after having ascertained that there will be no significant adverse effect on the integrity of Natura 2000 sites. In a situation where it is not possible to fully demonstrate that adverse effects on the site integrity would occur, options must be explored so that any risk of damaging designated sites is avoided. Components within a plan or program, such as objectives or proposals, can be adjusted or removed to avoid significant adverse impacts prior to implementation. The plan or program may also proceed if sufficient mitigation or compensation measures are in place to ensure the overall integrity of the site.

## **1.2 Name of project or plan**

Listowel/Ballybunion Functional Area Local Area Plan and the related / complementary 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015

## **1.3 Name and Location of Natura 2000 sites**

The following Natura 2000 are within 15km of the plan area (distance from the Natura 2000 site to the plan boundary in brackets):

- River Shannon and River Fergus Estuaries SPA 004077 (within)
- Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA 004161 (within)
- Kerry Head SPA 004189 (5.6km)

- Tralee Bay Complex SPA 004188 (13.5km)
- Akeragh, Banna And Barrow Harbour cSAC 000332 (13.5km0)
- Lower River Shannon cSAC 002165 (within)
- Moanveanlagh Bog cSAC 002351 (within)
- Kilkee Reefs (Clare) cSAC 002264 (10.7km)
- Tullaheer Lough and Bog (Clare) cSAC 002343 (13.25km)

#### **1.4 Description of the project or plan**

As discussed the plan is the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019)/related 10th variation to the Kerry County Development Plan 2009-2015.

#### **1.5 Is this project or plan directly connected with or necessary to the management of the sites (provide details)?**

The Listowel/Ballybunion FALAP and the 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015 are land use plans and are not directly connected with or necessary to the management of Natura 2000 sites.

#### **1.6 Are there other projects or plans that together with the project or plan being assessed could affect the sites (provide details)?**

These have been previously outlined. Briefly, the main plans that together with the Listowel/Ballybunion FALAP document which could affect Natura 2000 sites is considered to be the Kerry County Development Plan 2009-2015 and the Kerry Heritage and Biodiversity Plan 2008-2012.

#### **1.7 Describe how the project of plan (alone or in combination) is likely to affect Natura 2000 sites**

A significant proportion of the plan area is contained within or is located in the vicinity of Natura 2000 sites. The following are the key issues which were identified as being of importance in maintaining site integrity:- Water supply and hydrology issues, water quality issues, air quality issues, disturbance, trampling and erosion associated with recreation and tourism issues, disturbance, habitat loss / fragmentation associated with development issues, coastal squeeze issues, site management issues and invasive species issues. Many of these issues are potentially affected, either directly or indirectly by development.

#### **1.8 Explain why these effects are not considered significant**

These effects are not considered to be significant as it is considered that the policies and objectives of the plan either:-

- Will not lead to development,
- Are intended to protect the natural environment, including biodiversity (see Article 10 of Directive),
- Are intended to conserve or enhance the natural, built or historic environment and are unlikely to have an effect on a Natura 2000 site,
- Positively steer development away from Natura 2000 sites and associated sensitive areas,

- Positively make provision to ensure that the policy / objective implementation will not have a significant effect or adverse affect on the integrity of a Natura 2000 site, or
- Policies and objectives that can be dealt with by using a caveat or conditional approach requiring, where necessary, a case by case HDA.

### **1.9 List of agencies consulted**

Consultation has taken place in accordance with the Department's circular letter which states that: *The National Parks and Wildlife Service (NPWS) of the Department has a formal consultation role (through the Development Applications Unit (DAU)) as part of the screening and assessment process.* The SEA ER and HDA were sent to the statutory bodies. Submissions received have been incorporated into the plan where appropriate.

Furthermore in line with recommendations in the European Commission: *Assessment of plans and projects significantly affecting Natura 2000 sites - Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*, representatives from the Department of Communications, Energy and Natural Resources, the Environmental Protection Agency (EPA) and Inland Fisheries Ireland and other environmental bodies were forwarded this report as part of a wider public consultation exercise. The HDA was also forwarded as part of the SEA consultation process to statutory bodies required under the SEA directive.

Data collected to carry out the assessment

- Identification of Natura 2000 sites located within or immediately adjoining the plan area in situ and ex situ
- Mapping of Natura 2000 sites located within the plan area
- Mapping of the main surface water features and of the settlements located within the plan area
- Identification of the reasons for site designation,
- Identification of (draft) conservation objectives
- Identification of the environmental conditions considered necessary to support site integrity
- Summary of key issues identified as being of importance in maintaining site integrity
- Identification of Natura 2000 sites which may be potentially affected by the Plan
- Objectives, policies and strategies contained in the Listowel/Ballybunion (draft) Functional Area Local Area Plan.

### **1.10 Who carried out this assessment?**

This assessment was carried out by the Planning Policy Unit of Kerry County Council.

### **1.11 Sources of data**

The Habitats Directive Assessment of potential impacts on the integrity of Natura 2000 sites in this study is based on consultation, a desktop review of literature, existing and relevant NPWS Natura 2000 Site Synopses Data, Qualifying Interests, Conservation Management Plans and the (draft) Conservation Objectives. A review was also carried out of Habitats Directive Assessments recently carried out in relation to plans /projects in the area – namely those of the South West Regional Planning Guidelines 2010-2022, Kerry County Development Plans 2009-2015; the River Basin Management Plans for the Shannon Basin; the Shannon Integrated Framework Plan and a planning application relating to a proposed development at Ladies Strand, Ballybunion.

### **1.12 Level of assessment completed**

Stage One Screening.

### **1.13 Where the full results of the assessment can be accessed and viewed?**

The full results of the assessment are contained within this document

### **1.14 Overall Conclusions**

Stage 1 screening has identified that no significant effects on Natura 2000 sites are considered likely in relation to the implementation of the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019) and the related 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015.

### **1.15 Explain how the overall conclusion that there are no significant effects on the Natura 2000 site was arrived at**

The overall conclusion that no significant effects on Natura 2000 are likely was determined following a methodological assessment carried out having regard to the following guidance documents:-

- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009).
- European Commissions: *Managing Natura 2000 Sites. The provisions of Article 6, of the 'Habitats' Directive 92/43/EEC*
- European Commission: *Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*
- Guidance document on Article 6(4) of 'Habitats Directive' 92/43/EEC
- Department of the Environment Heritage and Local Government (DEHLG) Circular letter SEA 1/08 & NPWS 1/08 dated 15 February, 2008.
- Department of the Environment (1994). *Planning and Policy Guidance: Nature Conservation (PPG9)* (HMSO).

In identifying the potential issues which could affect the integrity of these sites a range of factors were taken into account, including the possibility of effects manifesting themselves in the short, medium and long-term, in combination effects and the potential impacts of climate change. In addition the precautionary principle was adhered to in the carrying out of this assessment.

## 1.16 Determination Statements

### 1.16.1 Determination Statement

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the objective information provided in this report, Kerry County Council as Competent Authority determines that the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019) and the related 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015, individually or in combination with other plans/projects is not likely to have a significant effect on a European site (Natura 2000 site). An appropriate assessment, under Section 177V of the Planning and Development Act 2000 (as amended), is not required.

### 1.16.2 Reasons for Determination

Following the screening of the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019) and the related 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015 for possible significant effects on the Natura 2000 sites detailed in this report, no significant effects were identified.

*This report finds that the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019) and the related 10<sup>th</sup> variation to the Kerry County Development Plan 2009-2015, would not have significant effects on Natura 2000 sites. It is therefore considered that an appropriate assessment is not required.*

Signed Cathy Fisher  
Cathy Fisher, Biodiversity Officer

Date 17/7/13

Signed Michael McMahon  
Michael McMahon, Director of Planning and Sustainable Development

Date 17 July 2013

**Appendix 1\*: Detailed Screening of the Adopted Modifications to the Proposed Amendments to the Material Alterations to the Listowel/Ballybunion Functional Area Local Area Plan (FALAP) (2013-2019)/related 10th variation to the Kerry County Development Plan 2009-2015 as adopted on July 15<sup>th</sup>, 2013.**

*\*This should be read in conjunction with the ‘SEA Environmental Report Addendum of the Proposed Material Alterations to the Listowel/Ballybunion Functional Area Local Area Plan 2013-2019 & for the related 10<sup>th</sup> Variation to the Kerry County Development Plan 2009-2015 and a Habitat Directive Assessment of the Draft Listowel/Ballybunion Functional Area Local Area Plan 2013-2019 and of the related / complementary variation to the Kerry County Development Plan 2009-2015’.*

**Modification No. 1**

It is recommended that Table 1: Population Growth Targets for Functional Areas, on page 7 of the Listowel/Ballybunion FLAP is replaced with the following table.

<b>Functional Area</b>	<b>Adopted Strategy 2010</b>	<b>Core</b>	<b>Projected Population at 2013 Following 2011 Census</b>	<b>Target population 2019*</b>
Listowel	16,676		16,758	18,632
Ballybunion	2,879		2,736	3,138
<i>North Kerry</i>			<i>19,494</i>	<i>21,770</i>
Wider Hub Area	80,332		80,612	89,558
Dingle	7,486		7,226	8,000
Cahersiveen	5,530		5,165	5,722
Castleisland	10,516		10,138	11,016
Kenmare	6,119		6,427	7,073
Killorglin	10,312		8,754	9,516
Castlegregory	2,090		2,103	2,219
Rathmore	4,357		4,488	4,941
Sneem	1,293		1,269	1,339
Waterville	2,279		2,092	2,208
<b><i>County Kerry</i></b>	<b><i>149,869</i></b>		<b><i>147,768</i></b>	<b><i>163,362</i></b>

**Table 1: Population Growth Targets for Functional Areas**

**\*Talking into account 2011 Census returns and projected growth as per adopted Core Strategy**

### **Modification No. 2**

It is recommended that the following text be inserted into objective NE-11 (as shown in *italics*) -

NE-11(a) Require that development proposals retain and where possible enhance the existing natural environment. This may include hedgerows, stone walls, cultural plantings, natural water features or equivalent, *and other ecological corridors and green spaces.*

NE-11(b) *Ensure that all coastal, riverine or lacustrine developments are properly assessed in relation to underwater archaeological impacts and have regard to the recommendations of the Underwater Archaeological Unit of the Department of Arts, Heritage & the Gaeltacht in relation to such developments.*

NE-11(c) *Ensure that all developmenst, which due to their location, size or nature may have negative implications for the archaeological heritage of the area, are properly and fully archaeologically assessed*

### **Modification No. 3**

It is recommended that the following text be inserted into objective E-7 (as shown in *italics*) -

E-7 Incorporate the polices and objectives of the Shannon Integrated Framework Plan, *following due process and the finalisation of the plan,* into the Kerry County Development Plan where it is deemed to be in accordance with the proper planning and sustainable development of the county. This will include requirements and considerations in relation to: landscape; cultural heritage; Natura 2000 sites and the Habitats & Birds Directive; the objectives of the Water Framework Directive and Flood Directive.

### **Modification No. 4**

It is recommended that text of objective BN-13 be amended as shown in italics -

BN-13 (a) Facilitate the sustainable development of glamping sites in the town at the locations indicated on the zoning map. Touring Campervans may also be accommodated as part of this development. A masterplan for the overall development of these lands shall be submitted with a planning application, mobile homes/fixed caravans shall not be permitted at this location.

(b) A planning application for a glamping site on the lands adjacent to the Rinn Bhui Caravan Park shall be accompanied by an Article 6 Habitats Directive Assessment and Visual Impact Assessment Report. Any proposal for the development of a glamping site at lands adjacent to the Rinn Bhui Caravan Park shall include the provision of a buffer zone between the site and any adjacent lands zoned passive / natural open space. The extent of the buffer zone shall to be determined by the planning authority in consultation with NPWS.

### **Modification No. 5**

The proposed pedestrian route from Bruach na Gaille housing estate in Moyvane to the proposed playground to the north be removed from the plan.

**Table 1 Screening of the Adopted Modifications**

<b>Proposed Modification Number</b>	<b>Risk of Significant ‘Effect (including in combination and accumulative effects)</b>	<b>Recommended Modifications / New Objectives / Policies / Supporting Text</b>
No 1	This modification refers to the addition of a population table into the proposed plan. No significant effects on Natura 2000 sites are deemed likely from this modification	None required
No 2	This modification refers to the addition of text to objective NE-11 specifically relating to archaeological heritage. No significant effects on Natura 2000 sites are deemed likely from this modification	None required
No 3	This modification clarifies that the Shannon IFP is, at the time of writing, still in draft format. No significant effects on Natura 2000 sites are deemed likely from this modification	None required
No 4	This modification includes additional text into objective BN-13 that specifically requests a buffer zone to be maintained between the “glamping site” and the Natura 2000 designation. No significant effects on Natura 2000 sites are deemed likely from this modification.	None required
No 5	This modification relates to the permanent removal of a proposed pedestrian access route between a housing estate in Moyvane and a proposed playground to the north. No significant effects on Natura 2000 sites are deemed likely from this modification.	None required