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Submission by Email to devplan@clarecoco.ie

**'Submission to the Draft Direction on the Clare County Development Plan 2023-2029'
In respect of lands where the Minister has directed Clare County Council to revert the
subject lands from Killaloe R6 to TOU Tourism.
Lands at Clarisford/Moys Townland, Killaloe, Co Clare.**

Dear Sir / Madam

We make this submission on behalf of Mr Michael McHale, [REDACTED] on the Draft Direction from the Minister of State at the Department of Housing, Local Government and Heritage under section 31 of the Planning and Development Act 2000, as amended, in respect of the Clare County Development Plan 2023-2029 (hereafter referred to as 'the Plan').

The crux of this case is that the zoning of the site for Killaloe R6 Residential is inconsistent with the proper planning and sustainable development of the area which the County Council is obliged to consider in its formulation of the Plan. The achievement of the proper planning and sustainable development of the State is enshrined in Planning Statute. There is also a requirement in the same Statute for Core Strategies to be produced setting out strategic development priorities including population targets etc and for statutory development plans to be consistent also with Section 28 guidance including Guidance on Development Plans and Housing Targets and Allocations.

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Our firm view backed up by evidence below is that the exclusion of consideration of the R6 site and other potential sites are contrary to the proper planning and sustainable development of the State and the area in question during a period of worsening housing crisis and other material planning considerations. The population projections upon which the housing allocation is made within the county are fatally flawed in our view and there has been no housing of any substance, nor will existing zoned site come forward for development as anticipated, to meet the provisions of the Core Strategy, as indicated below. Housing development has not occurred in the town substantively and will not occur in this period of housing crisis, over the period of the Plan, without the subject site being developed which it is our client's full intention to do, should the site be zoned R6.

The draft direction is made in response to a number of recommendations made by the Office of the Planning Regulator on the Proposed Alterations to the above County Plan placed on public display over the period 28th November 2022 to 3rd January 2023 inclusive. A submission was made by this company on behalf of our client Mr McHale in respect of site R6 in Killaloe on 3rd January this year and was duly considered by the local authority culminating in a vote of elected representatives to zone the site from TOU to R6.

The draft direction itself is now the subject of public consultation until 11th May 2023 and our client is pleased to avail of this opportunity to comment on the draft direction.

The Draft Direction

As indicated above, the Minister of State for the Department of Housing, Local Government and Heritage under Section 31 of the Planning and Development Act 2000, as amended, has issued a draft direction in respect of the Clare County Development Plan 2023-2029

The draft direction contains a request for the rezoning of some 20 no. development sites numbered from (i) to (xx) inclusive as per the recommendation of the Chief Executive's report dated 10th July 2022. The direction also contains a requirement for the deletion of text in relation to existing accesses of National Secondary Roads within section 11.2.9.3 of the Plan.

Within the draft direction there is item (ii) which directs as follows:

'Killaloe R6 – (ie the subject lands) revert to Tourism from Residential.'

It should be pointed out that this is the only site in Killaloe the subject of the draft direction. There are some 8 no. sites in Broadford and some 6 no. sites in Cooraclare the subject of the draft director. The reasons for the draft direction, of which there are several, are not aligned to particular instances amongst (i) to (xx).

Statement of Reasons for the Draft Direction

A Statement of Reasons is provided in the draft direction for the Minister taking the course of action that he and the Department see fit on this occasion and in response to the concerns raised by the OPR. There are in total some 7 no stated reasons for the draft direction. These are numbered (I) to (VIII) inclusive with there being no Reason (V) presented in documentation provided and placed on public display. Some reasons can be excluded as being irrelevant to consideration of this submission on Killaloe R6. Reason (II) is not considered relevant as it relates to access and the national roads network. Items (I), (II) and (IV) are considered relevant in this instance with reasons (VI) and (VIII) consequential upon reasons (I), (II), (III) and (IV). We would point out that Reason VII is particularly important in that it states that *'In light of matters set out in I-IV above the Minister is of the opinion that the Development Plan as made fails to set out an overall strategy for the proposer planning and sustainable development of the area.'* It is our view, elaborated below, that the exclusion of the subject Killaloe R6 site is contrary to the proper planning and sustainable development of the area rather than being supportive of it. It would be remiss of us not to point out that Reason (VII) states that the Plan 'as made' fails to set out an overall strategy for the proper planning and sustainable development of the area. We emphasise that the correction of this 'lack of an overall strategy' cannot be rectified solely by actions recommended under (i) to (xx) under part (a) of the draft direction nor indeed part (b) which relates exclusively to existing accesses off National Secondary Roads. Likewise, the overall strategy needs to be based on accurate and reliable facts.

The stated reasons for the draft direction that are relevant to this case, in addition to the aforementioned Reason VII are as follows:

- I. The Development Plan as made includes material amendments to the draft Plan which zone additional residential land in excess of what is required for Clare County as set out in the Core Strategy. These zoning objectives and amendments are located in peripheral and/or nonsequential locations and would encourage a pattern of development in particular locations which is inconsistent with national and regional policy objectives promoting compact forms of development (NPO 3 and RPO 35, which include lands that are not serviced or serviceable within the plan period inconsistent with the requirement to implement a tiered approach to zoning (NPO 72a-c), and inconsistent with national policy to promoting proportionate growth of settlements (NPO 18a), and fails to have regard to the policy and objective for a sequential approach to development under section 6.2.3 of the Development Plans, Guidelines for Planning Authorities (2022) issued under section 28 of the Act.
- II. This reason is not considered relevant as it relates specifically to existing access off national secondary roads which does not apply in this instance.

- III. The Development Plan as made includes zoning objectives and material amendments to the draft Plan which zone land for uses within flood risk zones A/B that are vulnerable and/or highly vulnerable to flood risk which lands have not passed the plan making Justification Test. These zoning objectives are inconsistent with national and regional policy objectives for flood risk management (NPO 57 and RPO 116) and fail to have regard to The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) issued under section 28 of the Act by not demonstrating on a solid evidence base that proposed land use zoning objectives will satisfy the Justification Test.

As clearly indicated below the subject site (Killaloe R6) does not flood and is not located within the local authority's own flooding assessment accompanying the Plan as made. We do not believe that Reason (III) applies in this instance therefore.

- IV. Further, the statement under section 28(1A)(b) attached to the Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives contained in the Development Plans, Guidelines for Planning Authorities (2022), and/or in the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and/or in The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) because of the nature and characteristics of the area, in addition to failing to include the reasons for the forming of that opinion contrary to section 28(1B)(b).

- VII In light of matters set out at I-VI above, the Minister is of the opinion that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.

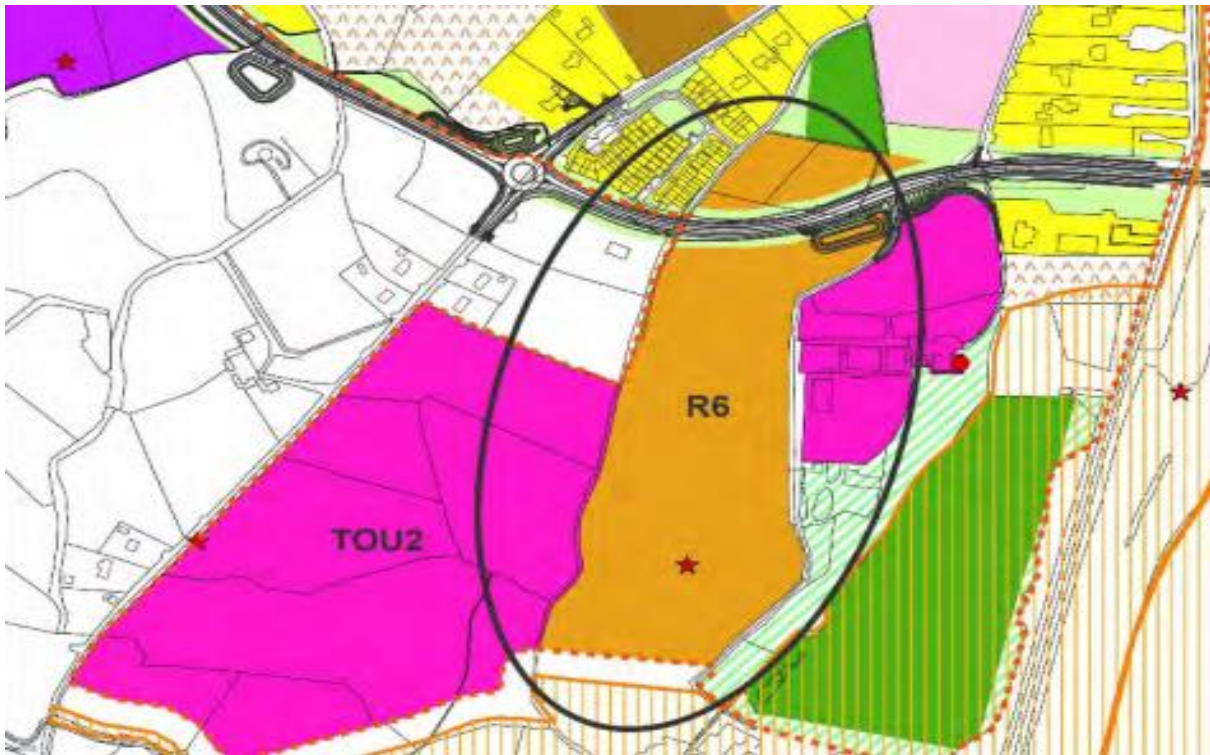
In respect of VII, we believe that the County Council has produced an overall strategy but not one that is capable of achieving the proper planning and sustainable development of the area if the projections and housing targets upon which it is based are flawed and other material planning considerations are not properly assessed (ie actual population growth, the housing crisis, consideration of the availability and delivery of sites).

The Site the Subject of the Draft Direction

The site comprises some 8 hectares of land located at Clarisford/Moys to the south of the town.

The site the subject of item (ii) of the draft direction is shown below in Figure 1. As indicated to the County Council in a previous submission the site is located on the proposed western bypass of Killaloe and the River Shannon Bridge south of Killaloe and in fact the subject site could not be better located in respect of that much needed piece of strategic roads infrastructure for the town which will address many of the access and circulatory issues experienced in the town over many decades.

Figure 1: Site Location Plan for Killaloe R6 (item (ii) of the draft direction).



As indicated above this is land that was previously identified for future tourism development having previously been zoned as TOU2 in the emerging County Plan. The principle of development, albeit non-residential development, has clearly been established for this site and it should be noted that a substantial amount of land under the TOU2 zoning remains in this location to meet the future tourism needs and potential of the town. The site cannot be considered unsuitable for development therefore in principle and is ideally suited to contribute to meeting the residential needs of the town.

The proposed bypass is clearly going to benefit the town substantially from an access and environmental perspective. The existence of the proposed bypass when completed will also clearly open up portions of land in close proximity to it for future development including this site that would have been previously constrained for future development purposes.

Proposed Amendment R6 the Subject of the OPR's Recommendation

To accommodate future residential development on R6, in a manner that showed great hindsight, or consideration of the OPR's likely recommendation, the County Council sought the following safeguards in the emerging plan:

- Development within Flood Zone A/B shall be retained for open space or other water compatible uses. A site specific Flood Risk Assessment will be required as part of the development proposals for the site.
- Provision of a masterplan for the entire site showing linkages to neighbouring developments and the surrounding area, proposed service provision and access routes to the site. The masterplan shall incorporate a habitat and species survey and an ecological assessment. These will inform the screening for Appropriate Assessment together with a Natura Impact Statement, should it be determined that an appropriate assessment is required;
- Provision for safe vehicular and pedestrian access to the site. Permanent and/or temporary access shall be addressed as part of a masterplan for the overall R6 site. Temporary access to R6 via unzoned lands may be considered in advance of the Killaloe bypass;
- These lands are adjacent to the Lower River Shannon cSAC (Site Code 2165). Given the extent of zoning at Killestry, it is imperative that there are no significant impacts on the adjacent ecologically sensitive shoreline adjoining the Lower River Shannon cSAC (Site Code 2165);
- Nutrient loading, siltation or any negative impacts on water quality must be avoided as these can have potential negative impacts on the aquatic ecosystems, e.g. fish habitat;
- A sufficient buffer zone shall be put in place between any proposed development on R6 and the European-designated site;
- Trees and hedgerows must be retained and maintained throughout the site where possible as these act as wildlife corridors;
- The hydrology of the site and subsequent potential impact on the adjacent cSAC must be taken into account at all times and this must be demonstrated as part of any planning application;
- Ground disturbance to the adjacent cSAC must be avoided;
- Due regard must be had to the flight path of bats in relation to the retention of trees. The migration paths and habitats of mammals, birds and fish along the Lower River Shannon must not be disrupted. Any future developments must not lead to the further spread of invasive species (Rhododendron and Japanese Knotweed) at this site; and,
- Proposals for development must demonstrate that suitable services and infrastructure, particularly relating to water supply and wastewater infrastructure, can be provided to serve the proposed development.

It is considered that all the above identified safeguards can be met, and will be met, and will ensure that any proposed development in this location will be consistent with the proper planning and sustainable development of the area and that the site can be zoned for residential development – the OPR’s recommendation/mandate that the site be returned to tourism acknowledges that the above safeguards can be met with development, albeit tourism, achieved on site. An indicative residential concept layout that would be compliant with all of the above CCC suggested requirements is shown in Figure 2 and in the attached. We note that the reference to flooding above from the County Council is at odds with their own flooding maps. Development can be located some distance from any area that may be considered vulnerable to flooding and we are informed that there is no history of flooding on the site, and certainly not in those areas where development is anticipated as shown in the indicative sketch layout below.

Figure 2: Indicative Sketch Layout Plan



The above shows a development of c150 units at a density of 35 units per hectare which is consistent with national planning guidance.

As indicated above, the strategic flood risk assessment undertaken by the County Council for the production of the Plan (Strategic Flood Risk Assessment) shows this R6 site to be neither within Flood Risk Zone A or B. The flood map in the Plan for Killaloe refers. We would ask the County Council to review the flooding status of part of R6 therefore. Reasons related to flooding in the draft direction reason (III) does NOT apply therefore and is not a valid reason for placing the subject site from R6 to TOU, in our firm opinion.

Clare County Council's Stated Position on Killaloe R6

The County Council's position on R6 is summarised as follows from the Chief Executive's report on Proposed Amendment Submissions and dated 30th January 2023. The response to the proposed amendment submission by our client under CCC ref. S3/155 reflects that given in the Chief Executive's Report of July 10th 2022 to submission S2/707 by the same parties.

Those concerns were as follows:

- the extent of land zoned for future residential use within any settlement is determined by the Core Strategy as set out in Volume 1 of the Draft Development Plan. In determining the location and distribution of residentially zoned land, the Core Strategy is consistent with 'Guidance Notes on Core Strategy November 2010' together with the provisions and conclusions of the SFRA, the SEA and the AA process.
- Site specific land use issues were considered. These criteria included, inter alia, the availability of services, a sequential test, flood risk assessment, planning history, consolidation of urban form etc.
- It was considered that the subject site was at a distance from the town centre and further away than other lands zoned Residential in the Draft Plan. Therefore, in accordance with the Core Strategy, it was considered that a sufficient quantum of land had been zoned at appropriate locations within Killaloe to accommodate the required amount of housing units to meet the needs of the allocated population growth for the town over the plan period 2023-2029.
- Given that there is adequate provision of zoned land within the settlement area, it was considered that the zoning of these lands for Residential was neither necessary nor appropriate and would be contrary to proper planning and sustainable development.

It was also stated that Irish Water have expressed concerns about the proposed Material Alteration, highlighting that a network extension would be required to service the lands.

Reference was also made to the OPR's recommendation (MA Recommendation 4) in respect of the same site, which is also a subject (item ii) of this draft direction, and their submission on the proposed amendments (S3/012).

The OPR's Submission on Proposed Amendment R6, requiring the Plan to be made without that proposed amendment, was summarised by the Chief Executive under Ref Small Towns: MA Proposed Amendment M4 in his report as follows:

‘Having regard to the core strategy of the Draft Plan, national and regional objectives for compact growth under NPO 3c and RPO 35, regeneration under NPO 6 and RPO 34, and proportionate growth under NPO 18a; the provisions of the Development Plans, Guidelines for Planning Authorities (2022) including the policy and objective for a sequential approach to development; and the provision of a sustainable settlement and transport strategy in accordance with section 10(2)(n) of the Planning and Development Act 2000, as amended, the planning authority is required to make the Plan without the following material amendment:

- *Killaloe p34 R6 – from Tourism to Residential (c.8ha);’*

Before addressing the reasons for the draft direction we wish to present our clients case for reinstating the R6 zoning sought.

Our client’s case is presented as follows:

Failing to meet Statutory Requirements

We believe that the Plan fails to meet the requirement of section 95 (1) (a) of the Planning and Development Act 2000 as amended. Section 95 (1) (a) states that:

‘95.—(1) (a) In conjunction with the inclusion of the housing strategy in its development plan, a planning authority shall, having regard to the overall strategy for the proper planning and sustainable development of the area of the development plan referred to in section 10, ensure that sufficient and suitable land is zoned for residential use, or for a mixture of residential and other uses, to meet the requirements of the housing strategy and to ensure that a scarcity of such land does not occur at any time during the period of the development plan.’

The Plan fails to ensure that sufficient suitable land is zoned for residential or for a mix of residential and other uses, to meet the requirements of the Council’s own Housing Strategy and as currently constituted for Killaloe fails to ensure that a scarcity of such land does not occur during the period of the Plan and has failed to have regard to relevant factors contrary to section 95 (1) (a). We state this with reference to the prescribed number of residential units identified in the Killaloe housing target within the Core Strategy of the Plan. Although labelled as targets initially by the County Council in the text of the plan, and following recommendation from the OPR this has now been removed, it is clear from the decision of the High Court in Heather Hill Management Company CLG v. An Bord Pleanála [2019] IEHC 450 that figures within the Core strategy of any Plan comprise de facto limits, in excess of which planning permissions cannot be granted other than through contravention and/or material variation. It is important therefore that targets are not only accurate but that the information generating them is also accurate and we have concerns in that regard as set out below. It is also important that given the absoluteness of these ‘targets’ that any zoned

lands, within those targets, must have a realistic prospect of being developed within the lifetime of the plan. We do not believe this to be the case in the instance of Killaloe. This was the substance of our previous submission for our client on the Proposed Amendments to the Plan.

The targets have been calculated without any satisfactory regard to the consideration of the proper planning and sustainable development of Killaloe. The existing and future population has been utilised by the County Council but it has depended on flawed and already outdated population projections which unfortunately it is required to do by dint of the S28 guidelines 'Housing Supply Target Methodology for Development Planning.' The achievement of the proper planning and sustainable development of the area is inherently incompatible with the use of flawed population projections and consequently housing targets for Killaloe.

The Flawed Basis for Population Projections and Housing Targets

The targets have failed to have regard to the existing population of the area as counted in the preliminary results of the most recent census completed on 3rd April 2022 and published by the Centra Statistics Office on 23rd June 2022; the future population of the area should have been projected correctly from the existing population enumerated in Census 2022; the actual size of a household in Ireland; the rate of migration into the State; the rate of obsolescence for existing housing stock; and finally, the actual or likely periods of time for translation of plans for residential use, the grant of planning permission, through to the eventual completion of residential units.

When the plan making process commenced in this instance the census had been scheduled for 18th April 2021 but was subsequently postponed to 3rd April 2022. In these circumstances the County Council were mandated to rely instead on output from the document 'Housing Supply Target Methodology for Development Planning' published by the Minister for Housing, Local Government and Heritage in December 2020 which was based on demand projections contained within the report on 'Regional Demographics and Structural Housing Demand at a County level' published by the ESRI in December 2020 which was based on the figures available from the 2016 Census and trends from the period 2011 to 2016. The preliminary census 2022 results available in June 2022 were not utilised in the formulation of the Draft County Plan over 2021, nor in the Draft Plan placed on public display until the end of March 2022, with the 2022 preliminary census results not available until June last year.

As previously stated, in just 6 years from 2016 to 2022 the State's population grew by 361,671 or 7.6% nationwide. This growth in the 6 years since 2016 is attributable relatively evenly to natural growth (47%) and net migration (53%) so this is not due to excessive immigration which means that growth can reasonably be expected to grow further, through natural means. By comparison, that there was an increase of over 120,000 housing units nationally over the same period (ie population growth is exceeding the rate of housing

provision nationally by a factor of 3 meaning that the gap between people looking for housing and that very provision is widening).

Population growth in County Clare reached 7.2% which was the 2nd fastest growing county in Munster (after Waterford).

The ESRI/NPF population projection for Clare, and the basis on which housing growth was identified and consequently the basis for estimating the amount of new residential zoned land required for the County, has significantly underestimated growth for the County of Clare from which Killaloe will get its share. Table B.2. of the ESRI's Regional Demographics and Structural Housing Demand at a County Level which forms the basis of the Government's 'Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities' identifies a population projection of 126,700 for the county in 2026. The target therefore has already been exceeded with the current (2022) population of 127,419 and the county's ESRI target of 129,500 for 2031 upon which housing targets were imposed is nearly being reached. It should be noted that the population target for 2031 is not the target for the Plan but runs well into the lifetime of the next statutory plan for the county covering the period 2029 to 2035. The population projections for Clare for 2026 upon which land is zoned in the emerging plan have already been reached and the projection for 2031 can be estimated to be reached in 2027 ie 4 years early (at an established growth rate of 0.8% per annum). In an era of housing crisis and a requirement for more housing opportunity and choice it is surprising that more land is not zoned where such projections have already been reached. How can obviously flawed targets being reached 4 years early and prior to the adoption of the Plan not be taken into account in the zoning of land especially in an era of housing crisis that is clearly worsening when it is clear through case law that targets cannot be exceeded?

Census 2022 Preliminary Results indicate that population growth projections have significantly understated growth for Killaloe and are a flawed basis for identifying housing targets. Killaloe's population has grown by a rate (11%) in excess of both the national rate of growth (7.6%) and the County Clare rate of growth (7.24%) over the period 2016 to 2022, indeed by a factor of 50% more in each instance. Census 2022 preliminary results were. This is clear from Tables 1, 2 and 3 in our client's submission supporting the proposed amendment.

The Housing Supply Target Guidelines state that *'housing completion data is now published by the CSO on a quarterly basis and can be applied to any six-year local authority development plan period, significantly increasing the frequency with which housing delivery can be benchmarked against identified housing demand projections. This approach is in contrast to the utilisation of population projections which, although important, can only be assessed with one fixed date every five years as part of a national census of population. It is a case in point that the Census due in 2021 has been deferred to 2022, due to the Covid-19*

pandemic.’ This is a clear acceptance that the housing targets that the County Councils are to use, including Clare County Council, are limited in their accuracy and usefulness in contrast to the rigidity to which they are to be applied and utilised in the formulation of core strategies and the demand for zoned housing land.

It is clear that elements of the methodology/model for identifying housing allocations nationally, and consequently local needs, have to be updated as relevant data becomes available, as was the case when Census 2022 data became available some time later than anticipated in June 2022 as identified above.

We believe that the County Council did not adequately consider indicators that the data from Census 2016 and the NPF and RSES projections had been superseded. These projections are based on research by the ESRI, published under the title *‘Prospects for Irish Regions and Counties: Scenarios and Implications’* Research Series No. 70 published January 2018. The baseline net migration assumption used in NPF projections derives from research undertaken by ESRI published as far back as January 2018 entitled *‘Prospects for Irish Regions and Counties: Scenarios and Implications’* that indicate 8,000 net inward until 2021, and 12,500 from then to 2040 are to be used. The CSO record the rate of inward migration to be much higher. In August 2020, the CSO published *‘Population and Migration Estimates’* to the year ending April 2020. For 2018 to 2020, the ESRI estimate was for 24,000 net inward migration (8,000 for each year). The CSO verified a figure at 96,600 over the same period 2018 to 2020, more than four times higher (yes, four time higher!) and Census 2022 results published on 23rd June 2022 confirm this. The submission by this author on the proposed amendments highlighted the large number of refugees, Ukrainian nationals etc in addition to the increasing number of homeless people in the State and the very substantial growth in population actually recorded across the State.

The net migration for the intercensal period 2016 to 2022 is reported to be 190,333, or 31,722 per annum from 2016. The ESRI projections underestimate net inward migration by 75%. It should also be noted, as indicated above, that there is a balance between migration and national growth so this is an important consideration.

As stated previously in our submission on the R6 Proposed Amendment, the Minister states in his letter to local authorities that *‘The ESRI research provides a robust, up-to-date and independently developed housing demand projection, to inform policy and investment with regard to housing at national and local levels.’* Again, we reiterate, in actual fact, none of this is true. It is not robust. It is not even correct or reliable with the passage of just two short years. The population growth nationally which has exceeded all expectations is, not only significant in its own right, but must be supplemented by the unexpected arrival of 70,000 Ukrainians since February of last year (2022) which would not have been considered in the most recent census. The increase in population is therefore 430,000 people across the State in total. This is a very significant number

which must be spread across the State and it is likely that more than just temporary accommodation will need to be provided for these Ukrainians.

There are some further demographic considerations to take into account, beyond the projections. These are set out below.

The ESRI projections also assume that the average size of a household throughout the State will remain at 2.8. This ignores the fact that average household size has fallen, on average, by 0.1 every three years since 1966. In the period from 1986 to 2011, the rate was even faster. Longevity, later marriage, fewer children, and more couples with no children suggest a true household size in 2016 of closer to 2.4, rather than 2.8. Nationally, that comprises an unmet housing need for more than 200,000 new homes.

Regardless of any population growth or not, any increase in 1-2 person households creates a demand for a significant number of new homes. This demand increases obviously if population grows as is definitely the case in Ireland. The projections, under the HNDA, also assume a rate of obsolescence for existing housing stock of 500 years. This period of obsolescence of 500 years seems unrealistic in the extreme. Also, zoned lands do not represent actually delivered units and Killaloe is a case in point as set out below where existing zoned sites have not come forward for planning never mind been developed. The take up of residentially zoned land also needs to be considered and this is a point we return to later in this submission.

It is for all of these reasons, and possibly more, that *'Housing for All'* and the Ministerial Guidelines on Development Plans recommend to *'avoid restricting the supply of new housing development through inactivity on a particular landholding or site'* and to *'ensure sufficient choice for development potential is safeguarded'* by zoning more serviced land and sites for residential *'than would equate to meeting precisely the projected housing demand for the settlement'*. We believe that the County Council has zoned only sufficient land to provide the forecasted number of residential units, and in fact has *'underzoned'* in those circumstances identified above, which with our comments below on the sequential approach and realisation of compact development, would mean that the subject site should be zoned residential.

The Need to Zone More Residential Land

it is indisputable in our view that the population projections issued by the ESRI are out of date and do not form a sound basis for assessing housing need and consequently the amount of land to be zoned for residential development across the State including County Clare. An article in the Irish Times dated 27th October 2022 (<https://www.irishtimes.com/business/2022/10/27/builders-challenge-wicklow-development-plan/>) also states that *'Wicklow's 2022-2028 development plan complies with the National Planning Framework, whose projections are based on the 2016 census*

rather than the one that the Central Statistics Office completed earlier this year. Minister for Housing Darragh O'Brien will review the framework in the second quarter of next year in light of Census 2022's findings. He has indicated that this could lead to councils zoning more land for new home building.'

The more recent Sunday Times of 1st January 2023 under the headline '*Housing crisis deepens amid target setback*' states the following, directly from the Minister, which further supports a more flexible approach to the zoning of land which would fully support the reinstatement of Proposed Amendment R6 into the Plan:

'The housing minister has conceded that the government will struggle to hit its own housing targets next year.

The government is preparing to update its targets in the Housing for All strategy, with numbers expected to increase to account for the growth in Ireland's population recorded in Census 2022.

Under O'Brien's Housing for All plan, 29,000 new homes are to be delivered this year, with that figure rising to 33,450 in 2024.

We will be looking at revising [targets]. That will mean, as well, looking at how much land we have zoned across the country. Is it enough? I don't believe it is.

Despite about 28,000 homes being delivered over the year, 2022 saw homelessness levels rise to record highs, as did rent levels and housing prices.

Almost 70,000 Ukrainians have come to Ireland since February when Russia began its invasion, while the number of international protection applicants from other countries has also dramatically risen over the past 12 months.

O'Brien said ministers had to 'plan for eventuality' that many Ukrainian families would want to settle in Ireland long term.'

The increase of 360K people in the State cannot be attributable to any Ukrainian influx as that occurred post census night. The additional 70,000 adds to the pressure for additional homes.

As indicated below there are only 2 no. new residential zoned sites that have a relatively realistic prospect of being developed and a further 2 no. strategic reserve sites that are joined to those residentially zoned sites. There are effectively 2 no. sites which can be

developed and such lands for future development are in the hands of just two landowners.

Deliverability of Existing Residential Zoned Sites

As indicated above ‘Housing for All’ and the Ministerial Guidelines on Development Plans recommend to ‘avoid restricting the supply of new housing development through inactivity on a particular landholding or site’ and to ‘ensure sufficient choice for development potential is safeguarded’ by zoning more serviced land and sites for residential ‘than would equate to meeting precisely the projected housing demand for the settlement’.

Figure 3 shows the location of all the R1-R6 sites. An analysis of each site’s location and development potential based on its planning history is set out in Table 1 also below.

Figure 3: Location of Residentially Zoned Sites R1 to R6

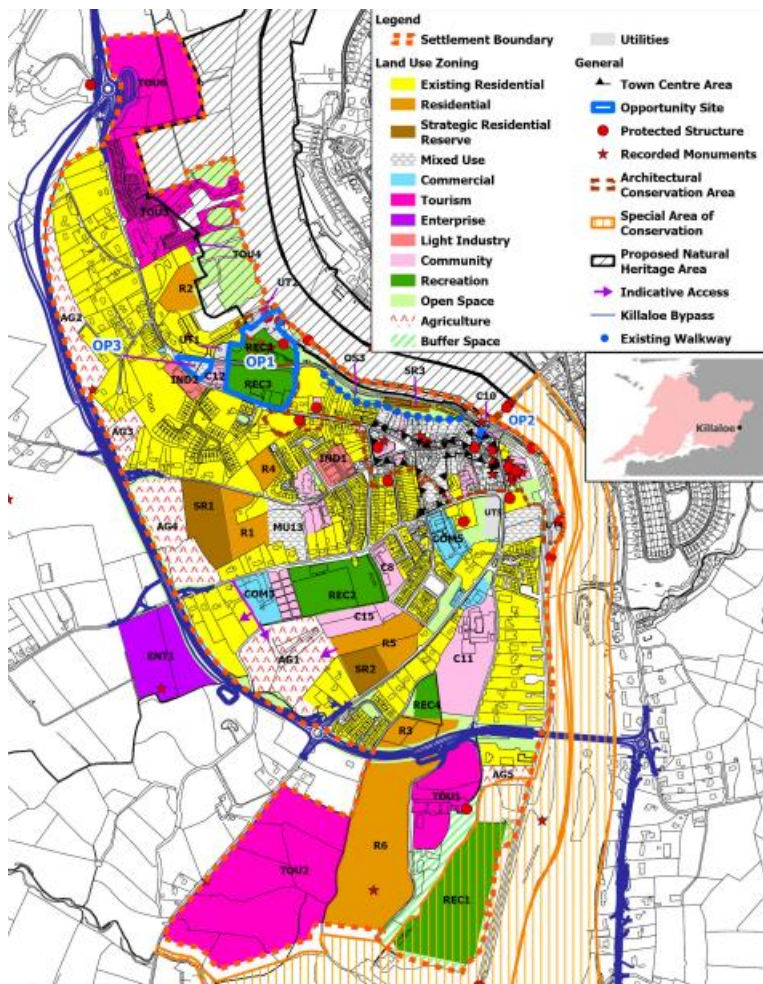


Table 1 below shows the development and planning status of the residentially zoned sites in Killaloe within the Plan. Of the five sites (excluding the subject site) only two have had anywhere near recent planning activity suggesting very strongly that the remaining three are not realistic prospects for coming forward for development within the lifetime of the Plan. Why should they? – two of the five have no planning history whatsoever and another has a nearly 20 year gap to the last planning decision (a refusal) on site.

Site **R1** was granted planning permission in 2016 and development is proceeding on that site. Permission was for 37 no. units. This site is likely to come forward for development in the Plan period. In respect to site **R2** there is no planning history. There is no realistic prospect of development occurring on this site if there have been no applications on it. This R2 site takes up valuable headroom within the housing target for the town. In respect of **R3**, permission was granted in 2004 for 15 no apartments. This site is identified for social housing and is not available to be made available for market housing. There is no planning decision shown in public records for the development of site **R4** and it is questionable whether it will be developed. We understand that there is no intention to proceed with development on site R4. The site identified as **R5** was refused planning permission in 2006 with no planning activity on site since. It is unclear if there is any intention from the owners to bring this site forward for development. Planning inactivity on site since a refusal of planning permission in 2006, nearly 3 no. plan cycles ago, would indicate a planning application during the period the Plan would appear unlikely therefore. From the above, and as shown in Table 1, there are only 2 no. residential sites of just 5 residentially zoned sites where there is a reasonable prospect of development proceeding, in our opinion.

The remainder of residential opportunities are within existing residential zoned land and should be considered separate to new residential zonings and the prospects of these lands being developed are either limited or unknown.

There is no planning history on the subject R6 site but our client is keen to see development on his site if the zoning can be reinstated. He is committed to providing much need housing for the town and indeed its economy.

Table 1: Planning History of Residential Sites (R1-R5 inclusive)

| R No. | Reg. Ref | Description | Date | Decision | Constructed |
|-------|----------|-----------------------------------------|------------|----------|-------------|
| 1 | 951089 | Construction of a dwelling | 30/04/1996 | Granted | Yes |
| 1 | 0719 | To construct a two storey dwellinghouse | 31/05/2007 | Refused | |
| 1 | 15723 | For the construction of 37 | 22/06/2016 | Granted | Part built |

| | | | | | |
|---|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------|-----|
| | | residential dwellings including 10 semi-detached and 27 detached houses on 2.484ha | | | |
| 2 | None. | N/A | N/A | N/A | No |
| 3 | 041626 | To demolish an existing garage and boatshed on site and to construct 10 No. detached dwellings | 03/11/2004 | Granted | No |
| 3 | 081214 | Construct a three storey plus mezzanine infill residential building consisting of 5no. 2 bed apartments at Ground floor level, 5 no. 2 bed apartments at First floor level, 5 no. 2 bed apartment at Second floor and mezzanine level on 1.683ha | 15/09/2008 | Refused | |
| 4 | None | N/A | N/A | N/A | N/A |
| 5 | 06424 | Demolish existing building and construct 72 no. houses. | 25/04/06 | Refused | No. |

Killaloe despite having significant population growth within the last (2022) census period on its own merits, but in particular as a defined small town, has seen very little development over the periods of the previous statutory plans.

The number of completions is shown in Table 2 below. Despite its relatively significant population growth, as indicated above, the level of completions has been very low either in its own right or compared to other designated Small Towns.

Table 2: Housing Completions in Designated Small Towns (including Killaloe)

| Statistic Label | Year | Settlements | UNIT | VALUE |
|------------------------------------|------|--------------------|--------|-------|
| Number of New Dwelling Completions | 2012 | Killaloe, Co Clare | Number | 1 |
| Number of New Dwelling Completions | 2013 | Killaloe, Co Clare | Number | 0 |
| Number of New Dwelling Completions | 2014 | Killaloe, Co Clare | Number | 1 |
| Number of New Dwelling Completions | 2015 | Killaloe, Co Clare | Number | 9 |
| Number of New Dwelling Completions | 2016 | Killaloe, Co Clare | Number | 1 |
| Number of New Dwelling Completions | 2017 | Killaloe, Co Clare | Number | 13 |
| Number of New Dwelling Completions | 2018 | Killaloe, Co Clare | Number | 4 |
| Number of New Dwelling Completions | 2019 | Killaloe, Co Clare | Number | 0 |
| Number of New Dwelling Completions | 2020 | Killaloe, Co Clare | Number | 6 |
| Number of New Dwelling Completions | 2021 | Killaloe, Co Clare | Number | 5 |
| Number of New Dwelling Completions | 2022 | Killaloe, Co Clare | Number | 1 |

From the above it is clear that there have been 41 no house completions in the 11 year period 2012 to 2022 within Killaloe. In most instances there are either none or one house built a year in the town in contrast to its significant population growth over the same period.

Does this not indicate that the demand is there but sufficient houses have not been provided? In the same period Newmarket had 71 completions and Kilkee had 60.

In addition to the above we are aware that there are currently 72 families on the County Council's housing waiting list in Killaloe. Without further zoning of land for residential purposes, there is little prospect of this list ever shortening with the prospect of those families listed ever living in their area of choice greatly diminished. This is not proper planning and sustainable development.

Deliverability of Strategic Reserve Sites

There are two Strategic Reserve Sites (SR). The first is SR1 which could be considered an extension of site R1 where there is some prospect of development proceeding. The second strategic reserve site is SR2 which can be considered an extension of R5. SR1 may be capable of coming forward for development. As is clear from Table 1 above, R5 was refused planning permission in April 2006 and there has been no subsequent planning application lodged since. It is questionable whether either R5, or its natural extension as SR2 will come forward for development in the lifetime of the plan. We are aware that R5 and SR2 are in the same ownership and therefore if R5 has not come forward for development there is little prospect for its natural extension as SR2 coming forward for development if zoned.

Development Potential and Deliverability of Agricultural Sites within the Defined Town Development Boundary

There are 4 no. agriculturally zoned sites within the defined development boundary of the town, which in sequential terms, would be preferable to rezone. However, these sites cannot come up for zoning at this stage and during the lifetime of the Plan.

The first site, identified as **AG1**, can be considered an extension to R5 and/or potentially SR2 which could come forward but which cannot as indicated above. R5 is the subject of a planning refusal from 2006 but has been the subject of no planning activity since, as far as we are aware. We assume after a period of 16 years (over 2 plan periods plus, nearly 3) this AG1 site will not come forward for development, even if it could, due to inactivity on Site R5 since 2006.

Site **AG2** is a relatively narrow site which we question is a viable site running along the proposed bypass and for which a substantial buffer (free from development) will have to be provided. Again, this AG site cannot come forward during this plan and can certainly not skip over the SR sites.

Site **AG3** is a relatively small site which will also require access through existing residential areas even if it could come forward, which cannot be the case during the lifetime of the Plan.

Site **AG4** is located directly east and contiguous to R1 which has been partially built out, as indicated in the Table 1 above, and cannot be developed until SR1 is zoned into residential and cannot come forward for zoning during the lifetime of this plan in any case.

Site R6 is located within the defined development boundary and was previously zoned for development

The subject site is located within the defined, and by now well established, defined development boundary for the town. To accommodate the now proposed R6 zoning there is no requirement to extend the development boundary of the town. It is also important that if the town is to thrive as a tourism centre that there are people able to live locally to sustain that industry rather than commute into the town for work. If the remaining Tourism sites are to be developed for the purpose they are zoned then accommodation within the town will need to be substantially increased. The Council and the Minister will be aware that such is the housing shortage that it is having a very negative effect on the economy with businesses unable to take on staff because there is nowhere for that staff to live.

As stated previously, Killaloe has the potential to be a tourism centre for Clare LSMA even though it is marginally outside. The town is an existing tourism centre and there is significant tourism zoned land to enhance its tourism offer. In providing that existing and enhanced tourism offer it is entirely reasonable to expect that the resident population will increase consistent with the stated aims of the Plan which seeks to achieved balanced development within the county (in our estimation this means the balanced provision of employment/tourism with residential) and *‘developing high quality and vibrant settlements and the sustainable growth of these settlements proportionate to their scale and appropriate to their function and location within the county.’* Development of tourism will require additional people living in the town.

The Core Strategy Chapter allocates a proposed population increase of 148 persons for the period 2023-2029 for which the Council proposes an additional 77 housing units on 5.78ha. This is a relatively minor allocation inversely proportionate to the tourism potential of Killaloe and reflective of stunted growth for past infrastructural reasons as identified above. If tourism and leisure activities are to grow then housing opportunity needs to grow otherwise there will be unsustainable levels of commuting and travel to the town by workers and insufficient support to existing services and amenities the viability for which must be questioned. In addition, it is projected that enhanced water and foul services will be available in the area by 2025 at the latest. The number of housing units for which land is zoned is barely enough to meet the housing waiting list for the town. The increase of 148 persons is chronically at odds with growth actually experienced, rather than erroneously projected, for the town.

The indicated population growth for Killaloe was a relatively paltry 148 persons reflective of past infrastructural constraints imposed on the town over many years which substantially reduce the population of the town which is in part a basis for establishing future projections.

Proposed Amendment R6 is consistent with the advice contained in Ministerial Guidelines for Planning Authorities on Development Plans (2022)

Section 4.4.1 of the Guidelines on Development Plans states that *'In all cases, whether phasing is applied or not, development plans must build in sufficient flexibility to ensure that housing development not progressing on one or more sites cannot operate to prevent other suitable sites that may be developed within the life of the development plan, from coming forward.'* Furthermore, it is stated in Section 4.4.2 that *'It is not the purpose of the planning system and the development plan process to facilitate the hoarding and speculation of serviced land. However, it is recognised that there is a need for some degree of competition and choice in the residential development land market and to ensure a future pipeline of well-located serviced land.'* In the next section of the same guidelines (Section 4.4.3) it is further stated that *'In providing housing sites for development within settlements, it may be necessary to zone more serviced land and sites for residential (or a mixture of residential and other uses) than would equate to meeting precisely the projected housing demand for that settlement. This approach recognises that a degree of choice in development sites to be provided locally is desirable to avoid restricting the supply of new housing development through inactivity on a particular landholding or site.'* It is concluded in this section of the guidelines that *'Accordingly, on a settlement by settlement basis, the precise extent to which zoned lands and sites in excess of that required to match the agreed housing supply target are provided, may be determined by the planning authority.'* The underlining above is our emphasis. Of the 5 no. residentially zoned sites only two have reasonable prospects of coming forward. These two and associated strategic land reserves (R1/SR1 and R5/SR2) are in the hands of just two owners and this is contrary to the spirit if not the express purpose of the above guidance.

Proposed Amendment R6 is consistent with the sequential approach advocated in the Guidelines on Development Plans (2022)

The emphasis in all available planning guidelines and in the most recent 'Town Centre First' strategy advocated by the Government is that town centres should be the focus for future population growth and that urban regeneration should be prioritised. Where town centre sites are unavailable to meet future development needs and population growth then sites further out should be considered. In this instance there are no town centre sites identified as being suitable to meet all the future needs and population growth of the town. The existing town centre is constrained in terms of challenging topography with a very fine grain to existing development, only relatively small sites potentially available, and in this case the provision of the bypass greatly enhances the ability of sites that are far less constrained to come forward for residential development including Site R6. Volume 1 of the Plan supports our synopsis on constraints to town centre development namely that *'The town core has been designated as*

an ACA. The street pattern in Killaloe today is very similar to that shown on the Grand Jury Map of 1787' and therefore is physically constricted. An assessment has been made of the likelihood of other residentially zoned sites coming forward in the short to medium term or alternatively strategic reserve or agricultural sites in the longer term. As indicated below the OPR may be under the misguided impression that all of R1 to R5 zoned sites may come forward for development and be sequentially preferable or available but this is not the case – sequentially preferred sites must be available and deliverable and only two such sites fit these requirements namely R1 and R5. Text above and the evidence of Table 1 proves this in our opinion.

Proposed Amendment R6 does not represent 'piecemeal' development frequently used against zoning proposals

There is an acceptance in the Plan that lands are zoned for development south of the proposed bypass. In this regard there is already land zoned in the Plan for existing residential, tourism under TOU1 and TOU 2 and recreation under REC 1 all within the existing well established development boundary for the town. R6 should not be considered piecemeal as it is sandwiched between two TOU zonings and is a very attractive proposition for future housing for which there is a demonstrable need given the proximity to the town centre. We estimate Abbey Street to be less than 800m away which is within a 10 minute walk. As indicated above this is consistent with the 10 minute town concept advocated within the emerging County Plan. We would also point out that R6 is located a few minutes away from Clarisford Park (REC 1) which offers a wide range of recreational opportunities of an active and passive nature. In this regard Clarisford Park can be considered a recreational area of town wide significance and importance. It makes sense therefore from a planning perspective to locate much needed residential development close to it, where maximum use and enjoyment can be experienced of this town asset.

This is an ideal location for residential development

Demand for single rural housing may be reduced if sufficient supply of attractive and affordable homes in rural towns and villages is available. We suggest the provision of residential land in this area will increase housing supply and choice, thereby reducing the demand for single rural dwellings. We believe this location, close to the town centre with capacity for residential development, will offer a controlled and sustainable option to those who do not meet rural housing needs criteria in Killaloe.

The site also adjoins Clarisford Park playing pitches which allows areas for children to play. There is also ready access to heritage areas and natural landscapes as acknowledged in the Plan. There is ability to access the site from two directions the most northerly a short 10minute walk from the town centre consistent with the concept set out in the Plan of the 10 minute town where everything required for sustainable day-to-day living is located within a ten minute walk of a site.

Response to Reason I which states:

The Development Plan as made includes material amendments to the draft Plan which zone additional residential land in excess of what is required for Clare County as set out in the Core Strategy. These zoning objectives and amendments are located in peripheral and/or nonsequential locations and would encourage a pattern of development in particular locations which is inconsistent with national and regional policy objectives promoting compact forms of development (NPO 3 and RPO 35, which include lands that are not serviced or serviceable within the plan period inconsistent with the requirement to implement a tiered approach to zoning (NPO 72a-c), and inconsistent with national policy to promoting proportionate growth of settlements (NPO 18a), and fails to have regard to the policy and objective for a sequential approach to development under section 6.2.3 of the Development Plans, Guidelines for Planning Authorities (2022) issued under section 28 of the Act.

As indicated above we believe the Core Strategy does not adequately take into account those population provisions and other key material considerations that it is obliged to do so under the Ministerial Guidelines regarding population growth, the estimation of housing land requirements etc that are consistent with the proper planning and sustainable development of both the County and Killaloe which it is obliged to do under Section 95 (1) (a) of the Planning and Development Act 2000 as amended.

In terms of whether the development of the subject site would constitute compact development we refer the County Council to the location and circumstances of the site and National Policy Objective NPO3 and RPO35 from the RSES covering Killaloe. NPO3 – which is actually split into 3 individual elements - seeks to ensure that 40% of all new homes will be delivered within the built-up footprint of existing settlements (3a) and that at least 30% of all new homes outside Dublin, Cork, Limerick, Galway and Waterford will be delivered in remaining settlements and within their existing built up footprints. The subject site is in some respects an extension of R3 (like SR1 and SR2) and is located directly adjoining Clarisford Park (a nearby amenity which SR1 and SR2 do not have) which is an amenity for the whole town and can be considered an amenity for the existing built fabric of the town. RPO35 is basically the same as NPO3 and advocates the prioritisation of sites for development that are available and deliverable within the built-up areas of towns and villages across the State.

In terms of NPO72 National Policy Objective 72a states that planning authorities will be required to apply a standardised, tiered approach to differentiate between i) zoned land that is serviced and ii) zoned land that is serviceable within the life of the plan. Whilst 72b refers to estimated costs of necessary infrastructure, 72c indicates that when considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development. The subject site is capable of being serviced.

NPO18a is referred to in the draft Direction under Reason I. This seeks to support the proportionate growth of, and appropriately designed development, in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services etc. The subject site is capable of providing open space to the south, can link to existing paths and trails in the area and is immediately adjacent to Clarisford Park which is a park for the whole time and not just for the immediate area.

Reason I also refers to the need to follow the sequential approach when considering the most appropriate sites to zone for residential purposes. It refers specifically to Section 6.2.3 of the Development Plan Guidelines. When considering such a sequential approach it should be borne in mind that only sites that are available and deliverable should be considered in that sequential approach. This appears not to be the case for 3 of the 5 no. sites zoned for residential development. Only sites R1 and R5 would appear to come forward for development within the period of the plan. We would refer the County Council to sections 4.4.1- 4.4.3 of the same guidelines, referred to above, when considering 6.2.3 as set out in Reason I. Site R6 is the same distance from the defined town centre which is approximately 650m. Site R6 is also within ten minutes of the core of the town and complies with the 10 minute town concept well established and accepted in the plan.

Response to Reason II:

This reason is not considered relevant as it relates specifically to existing access off national secondary roads which does not apply in this instance.

Response to Reason III which states:

The Development Plan as made includes zoning objectives and material amendments to the draft Plan which zone land for uses within flood risk zone A/B that are vulnerable and/or highly vulnerable to flood risk which lands have not passed the plan making Justification Test. These zoning objectives are inconsistent with national and regional policy objectives for flood risk management (NPO 57 and RPO 116) and fail to have regard to The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) issued under section 28 of the Act by not demonstrating on a solid evidence base that proposed land use zoning objectives will satisfy the Justification Test.

As previously indicated the subject site (Killaloe R6) does not flood and is not located within the local authority's own flooding assessment accompanying the Plan as made. We do not believe that Reason (III) applies in this instance.

Response to Reason IV which states:

Further, the statement under section 28(1A)(b) attached to the Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives contained in the Development Plans, Guidelines for Planning Authorities (2022), and/or in the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and/or in The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) because of the nature and characteristics of the area, in addition to failing to include the reasons for the forming of that opinion contrary to section 28(1B)(b).

Two of three guidance documents referred to in this reason do not apply to our client's site – namely the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and/or in The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009). In fact, it is not clear from how the draft Direction is written which guidance document refers to which of the (i) to (xx) components of the plan cause offence to the OPR/the Minister/ the Department.

As indicated above we believe that the reinstatement of R6 is consistent with the Development Plans - Guidelines for Planning Authorities (2022) and that it would be consistent not only with those guidelines but also section 95 (1) (a) of the above Act.

Conclusions

Proposed amendment R6 is supported for the following reasons.

- **Of the 5 no. residentially zoned sites only two have a realistic prospect of coming forward during the plan. The planning histories of each of the 5 indicates this clearly.**
- **SR sites are tied to two principal landowners in the town.**
- **Agriculturally zoned (AG) sites cannot come forward during the plan.**
- **The principle of development on this site is acknowledged in the former TOU2 zoning for this site, as is the principle of development south of the bypass.**
- **The proposed bypass will greatly improve access to previously unzoned lands within the town including this site.**
- **R6 has the benefit of being located immediately close to Clarisford Park which can be considered a park for the whole town with a variety of active and passive recreational activities for the town and nearby development.**
- **R6 is approximately 650m from the defined town centre – the same approximately as site R2. Zoning R6 for residential is consistent with the concept of the 10 minute town which is a prominent and key concept in the plan.**
- **R6 is strategically located within the town being 'next door' to Clarisford Park which is an amenity area for the whole town.**

- The sequential approach should only be applied to sites R1 to R5 for which there is a realistic prospect of development coming on only 2 no. of those sites- the remaining 3 sites should be excluded from the sequential test. Indeed, site R4 is approximately the same distance as R6 to the defined town centre.
- Safeguards for future development on the R6 site previously listed within the plan can all be met to ensure the proper planning and sustainable development of the area is achieved and all the sensitivities of the area respected.
- Homes are needed in the town and development has been presented in the past due to infrastructural constraints that are now easing. Homes are needed to sustain economic development locally as well as nationally.
- There is a substantial and ongoing housing crisis.
- Population projections across the State have substantially understated the actual population growth occurring within the State, the county and in Killaloe. Despite what has been effectively an embargo on substantial development in the town through lack of infrastructure capacity, which is being rectified, population growth in Killaloe is in fact 50% greater than growth in both Clare County and the State. This and previous infrastructural constraints being removed warrant maximising the zoning of residential land in the town.
- Population projections by the ESRI have been identified as understated at best and incorrect at worst. The housing allocation for the County and consequently for Killaloe imposed by the Department in Ministerial Guidelines and Ministerial letter/circular based on those projections is seriously flawed. Numerous County Plans recently adopted have been legally challenged on the basis of these outdated now proven incorrect population projections.
- The Minister for Housing has acknowledged that the targets in Housing for All will not be met and that the amount of residentially zoned land across the State will have to be reviewed. Press releases and newspaper headings quote above refer.
- Population projections for 2029 will be reached years ahead of time.
- R6 is fully justified in terms of actual population growth and the status of Killaloe as a designated small town where populations of 2,500 to 4,500 have been identified for such settlements. It makes sense for the towns potential to be maximised given actual population growth and historic infrastructural constraints being eased and the ongoing housing crisis.
- The Ministerial Guidelines for Development Plan state that the precise extent to which zoned lands and sites in excess of that required to match the agreed housing supply target are provided, may be determined by the planning authority. The County Council should exercise that discretion for the reasons identified above.

We trust the above will be taken into account in the Minister's Department's consideration of the Plan.

If any clarification or elaboration on the above is required please do not hesitate to contact the undersigned.

Yours sincerely,



Eamonn Prenter MIPI MRTPI

Director

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