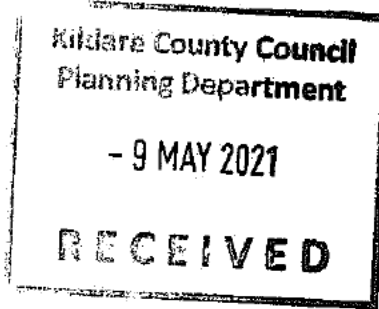


Senior Executive Officer  
Planning Department  
Kildare County Council  
Áras Chill Dara  
Devoy Park  
Naas  
Co. Kildare



KCC REF. PPS21

25 April 2022

Dear Senior Executive Officer

I am notified by the new owner of Hillford House, Old Hill, Leixlip, Co. Kildare that Kildare County Council [KCC] has sent the owner a letter dated 22<sup>nd</sup> March 2022, stating that KCC is 'currently considering the property for inclusion on the Record of Protected Structures as per Section 12 (3) of the Planning & Development Act 2000 (as amended).

I am also notified that the new owner has been a long term local Leixlip resident and continues to live in Co. Kildare.

This submission is in relation to the Hillford House property not having been recorded in 23 years, therefore it is clear that Hillford House has not been in perspective to Kildare County Council RPS. The building is located outside the Architectural Conservation Area and within Zoning B – Existing and Infill in the Leixlip Local Area Plan, 2017 – 2023.

**“To protect and enhance the amenity of established residential communities and promote sustainable intensification.”**

The KCC letter also states that this 'proposed addition was not recommended to us by the Minister for Arts, Heritage, Gaeltacht and the Islands' a former Department from 1997. The current Minister for Heritage is within the Department of Housing, Local Government and Heritage.

In order to provide clarification and information to Kildare County Council on this current consideration, there is legal information and local authority zoning for housing included in this submission.

A survey of the property and area has been undertaken, former planning applications and an enquiry with the owner for his Title Deeds is also included.

It is noted in conclusion that any late 19<sup>th</sup> century historic map in the area had the name 'Hillford House' on the map, and within 23 years and four separate development plans, 1996-2002, 2003-2009, 2010-2016, 2017-2023, in the local authority, it has not been considered for inclusion to Record of Protected Structures, therefore it is a separate property outside the RPS, on land for Kildare County Council Zoning which would have been decided and agreed via local community and councillors in the past and up to the current year.

A request was made for Title Deeds Folio No. KE7011 in order to provide some history of the property. The Property Registration Authority official document printed 19/05/2020.

The PRA has no significant detail of the property.

Part 1 The property is situated in the Townland of Leixlip, in the Barony of Salt North, in the Electoral Division of Leixlip. The registration does not extend to the mines and minerals by Fee Farm Grant dated 5<sup>th</sup> December 1849.

Part 2 21-Oct-1983 Elizabeth Bruton of Ravensdale, Leixlip, County Kildare is full owner.

The property was purchased in 2020 by the current owner who had taken on the clarity of Kildare County Council zoning and the fact the building is not a protected structure.

Planning application was made in relation to altering the entrance.

Ref. 21/369 Application refused. Planner Paris Fannen

Second planning application for the movement of the entrance Ref. 21/1247 was granted. Planner Louise Murphy.

Rather than quoting 16 pages of Planning Ref 21/1247 I note the Planner Louise Murphy conclusion states:

Having regard to the revised proposal, the proposed development addresses the previous reasons for refusal in relation to reg. ref. 21/369 and additionally, the proposed development accords with policies with the Leixlip LAP 2020-2023 and the KCDP 2017-2023.

There is no evidence of previous planning applications to Kildare County Council on this property.

However, there is a planning permission granted late last year on the surrounding ground of Hillford House. Planning Ref. 21/655 Mulberry Properties application granted permission, Planner Louise Murphy, for:

A residential development of 57 dwellings, as follows;- 12 no. 3-storey, 4-bedroom semidetached houses; 9 no. 3-storey 3-bedroom terraced houses; 6 no. 3-storey, 3-bedroom end of terrace houses; 3 no. 1-bedroom 2-Storey units in converted stone

*Kildare County Council, M.A., M.U.B.C., Drafting at Law*

barn, 15 no. 2-Bed apartments and 12 no. 1-Bed Apartments in 2 no. 3-storey apartment blocks; with bicycle and refuse stores; site and infrastructural works including foul and surface water drainage, water services, landscaping, planting, boundary walls, roads, carparking, bicycle stands and pathways; new pedestrian access from Station Road and new road access from Knockaulin Estate. Revised by Significant Further Information which consists of revised design of houses, apartments and ancillary buildings, revised layout including removal of one house and revised car parking and public open space and relocation of pedestrian entrance on Station Road.

**Kildare County Council Leixlip Local Area Plan 2020 – 2023 includes policies directly on the land of Hillford House within Zoning B.**

Information taken on by the current owner from **Kildare County Council Leixlip Local Area Plan 2020-2023 document**, is included in summaries in this letter with ‘bold’ detail for KCC notice.

**2.1 Historical Development [page 5]**

The physical constraints of the M4 motorway to the south, the railway and Royal Canal to the north and west and St. Catherine’s Park to the east provide limitations for the further development of Leixlip. **This plan aims to address such constraints in a manner which facilitates further development, in accordance with the provisions of the Kildare County Development Plan Core Strategy 2017-2023**, in a sustainable manner.

**3 Vision for Leixlip [page 8]**

**3.1 Strategic Vision**

This Local Area Plan (LAP) is underpinned by a strategic vision which is intended to guide the future growth of Leixlip in a sustainable manner, in a way that reflects the existing character and amenities of the area, the surrounding landscape, heritage and environment and improves the quality of life for the existing and future community.

The strategic vision is based on the role of Leixlip within the Metropolitan Area Strategic Plan (MASP) as set out in the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region and the settlement strategy of the Kildare County Development Plan 2017-2023.

The vision for the LAP will ensure that growth planned for the town over the Plan period and beyond occurs in a sustainable and sequential manner, while prioritising a low carbon, compact, consolidated and connected pattern of development.

**Vision**

**To develop Leixlip as a dynamic town in which to live, work and carry out business, supporting a living and working population in a sustainable and compact manner and to protect and maximise opportunities presented by the unique natural and built environment**

**4.5 Environment and Heritage Protection [page 11]**

The environmental sensitivities of the county identified in the Strategic Environmental Assessment (SEA) process for the Kildare County Development Plan 2017 – 2023 have informed the Core Strategy and the role it identifies for Leixlip.

**It is noted that this Environment and Heritage aspect of LAP demonstrates that KCC once again has excluded Hillford House on RPS and in ACA for over 23 years.**

**7. Housing and Community [page 33]**

To deliver new residential development within Leixlip to support existing community infrastructure, recreation and amenity facilities and provide new facilities in tandem with opportunities for significant new housing.

**7.3 Residential Density, Mix and Design [page 34]**

Given the proximity and connectivity of Leixlip to Dublin and being a key employment centre in the Dublin Metropolitan Area (DMA) it is anticipated that there will continue to be a strong demand for a varied mix and type of housing in the Plan area. There is a high proportion of 3-bed semi-detached type dwellings within the town.

The Plan seeks to address this mono type of housing and will seek to ensure a greater mix of housing. Residential schemes should provide for both a mix of dwelling size and dwelling type to cater for a diverse range of housing needs.

The overall design and layout of residential development should be of high-quality and comply with the urban design principles contained in the County Development Plan.

Government policy outlined in Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (DECHG, 2009) and Urban Development and Building Heights: Guidelines for Planning Authorities (DHP&LG, 2018) state that land is a scarce resource and should be managed efficiently.

These guidelines set out a range of appropriate densities for different site locations having regard to the level of transport available. **As a general principle, higher densities should be located in town centre infill locations and proximate to public transport.**

**LAP continues further information on housing, not necessary to include in this letter, 7.3.1 Group Special Needs Housing; 7.3.2 Housing for Older People and policy HC2 Residential Density, Mix and Design, and Objectives.**

**10.1.1 Record of Protected Structures [page 60]**

The Planning and Development Act 2000 (as amended), places an obligation on local authorities to include objectives for the protection of structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. Archaeological structures may, in some situations, be considered as architectural heritage and, therefore, may appear on both the Record of Monuments and Places (RMP) and the Record of Protected Structures (RPS). The Record of Protected Structures which includes structures in Leixlip is contained within the County Development Plan.

Table 10-1 (see overleaf) is an extract from the Record of Protected Structures and is reproduced in the LAP for information purposes only. These structures merit protection and enhancement and in many cases have been identified by the National Inventory of Architectural Heritage (NIAH) for that reason. **The NIAH for Kildare was completed in 2003 and the Council completed a review of the RPS for the county, including Leixlip, in 2015.**

There are a significant number of Protected Structures located within the Main Street area of Leixlip, including Leixlip Castle at the western end of the town, Leixlip Boathouse at the confluence of the Liffey and Rye Water and the eight houses of the Mall, Main Street.

The inclusion of Kildare County Council Development Plan and Local Area Plan Policy in this letter demonstrates that there is not a 100% decision to list the building. In particular that Kildare County Council states that it **'completed a review of the RPS for the county, including Leixlip, in 2015.'**

**Hillford House is not a Protected Structure** and has clearly not been on the 1963 Grade List, it has not been viewed for listing over 23 years since PDA 2000 was entering legislation in 1999. **Therefore Policy BH1 on Leixlip LAP and its objectives does not impact Hillford House.** Policy topics on Leixlip Spa, The Wonderful Barn, Boat House and Burial Grounds are excluded in this letter.

#### **Policy BH1 – Protected Structures**

BH1 It is the policy of the Council to preserve and enhance the buildings identified on the Record of Protected Structures and to carefully consider any proposals for development that would affect the special value of such structures, including their historic curtilage, both directly and indirectly.

#### **Objectives**

It is an objective of the Council:

BH1.1 To ensure the protection of all structures, (or parts of structures) and the immediate surroundings including the curtilage and attendant grounds of structures contained in the Record of Protected Structures (refer to Table 10.1 and Map No. 2 Leixlip Built Heritage and Archaeology).

BH1.2 To acknowledge and promote awareness of the origins, historical development and cultural heritage of the town, to support high quality developments that relate to local heritage and to ensure that new development respects and is responsive to the cultural heritage of Leixlip.

BH1.3 To protect the landscape character, values, sensitivities, focal points and views in Leixlip, including those identified in the Kildare County Development Plan. This will include, inter alia, the following:

a) the requirement of a Visual Impact Assessment for developments with potential to impact on areas of significant landscape character, value or sensitivity, including both urban and natural features, significant townscapes and historic buildings, as appropriate.

b) prohibit development that will block or interfere with a significant focal point or a view. Where it is considered that a development may impact on focal points or views, proposals must have regard to the significance of any such impact and any appropriate mitigation measures that should be incorporated.

**Kildare County Council  
Planning Department**

- 9 MAY 2021

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## **Planning and Development Act 2000 [as amended]**

A planning specialist and architectural heritage specialist include information on the treatment by planning authorities of buildings that are not protected structures and not in an architectural conservation area.

A planning authority can decide to refuse planning permission for the demolition of a building in respect of more residential dwellings required in the area, because of historic or vernacular detail, despite the length of time the property could have been listed on the RPS, even though the building is not a protected structure, nor located in an ACA.

Such refusals which vary the national legislation throughout each county can be considered illegal and also undermine the purpose of a development plan.

The Planning and Development Act, 2000 introduced the concept of protected structures, being a more effective way of protecting architectural heritage than had been the case with the former system of listed buildings.

Section 51(1) of the PDA 2000 [as amended] states that:

For the purpose of protecting structures, or parts of structures, which form part of the architectural heritage and which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, every development plan shall include a record of protected structures, and shall include in that record every structure which is, in the opinion of the planning authority, of such interest in its functional area.

A key word in this is "shall". In other words, if the planning authority believes that the building is of such interest it has an obligation under section 51(1) to include it in the record of protected structures. The corollary of this is that a building that is not included in the record of protected structures for 23 years, has, in effect, been deemed by the planning authority not to have met the criteria for inclusion.

Whilst a planning authority may state that there are buildings that they have overlooked, or that they had not had time to fully assess the local authority area for its architectural heritage. In this case, in a very populated area with schools, new housing and busy roads close to Hillford House, and the name on historic maps, it is not accepted that the building could have been overlooked.

It is more than fifty-seven years since the 1963 planning act introduced the concept of the listed building and these lists formed the basis for the first records of protected structures.

Since then, every planning authority has been through the full six-year term of three separate development plans, with most authorities preparing their fourth development plan, and the 2000 act has been in force for twenty-three years.

**Kildare County Council  
Planning Department**

Deirdre Conroy, M.A., M.J.B.C., Barrister at Law

8/11/2021

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It is noted that a key principle of the development plan, is that the Local Authority Development Plan is a contract between the planning authority and the people, with the latter including individuals and businesses. A critical function of a development plan is to bring certainty to the planning process.

Since the introduction of the Planning Acts, due diligence in property purchase will include an investigation of the planning context of that property.

This is one of the main reasons why the planning acts require that a planning register is maintained and sets down what must be held in that register – inclusion in the record of protected structures being one of those requirements.

If a person or a business is considering purchasing a property with a view to developing on the site, the investigations prior to purchase will provide the information as to whether the buildings are protected. That is the straightforward case in Hillford House.

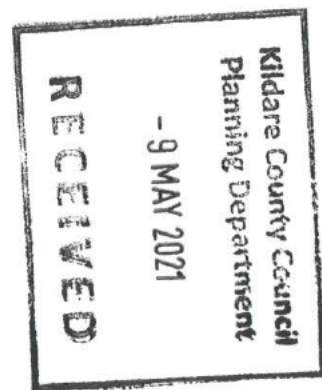
It is noted that the external cottage is more historic than the internal building and would have been more on view to the public and local authority since the PDA 2000 and it is therefore not considered as significant in the area since RPS started in 1999.

### Conclusion

The inclusion of Kildare County Council Development Plan and Local Area Plan Policy in this letter demonstrates that there has never been an interest to list Hillford House on RPS. In particular that Kildare County Council states that it **'completed a review of the RPS for the county, including Leixlip, in 2015.'**



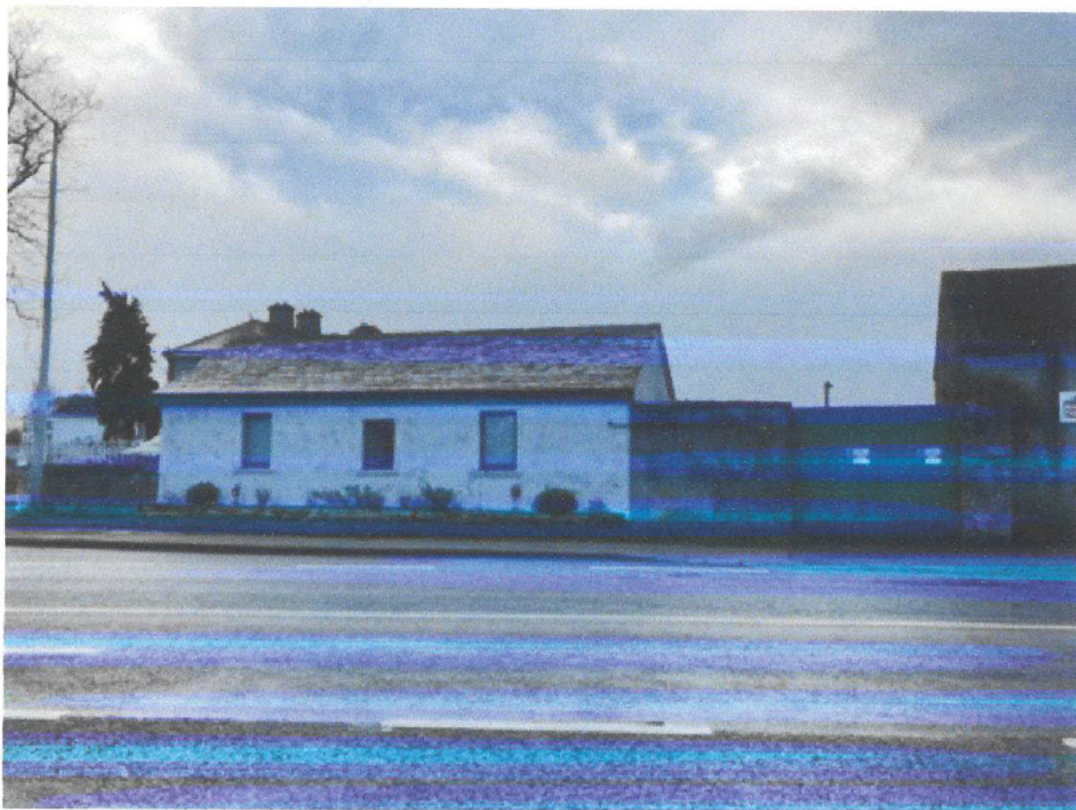
Original Entrance Gate







Hillford House on Old Hill/Station Road  
Land to rear and side granted permission in 2021 for 53 Residential Dwellings



Cottage on the front boundary not listed on RPS

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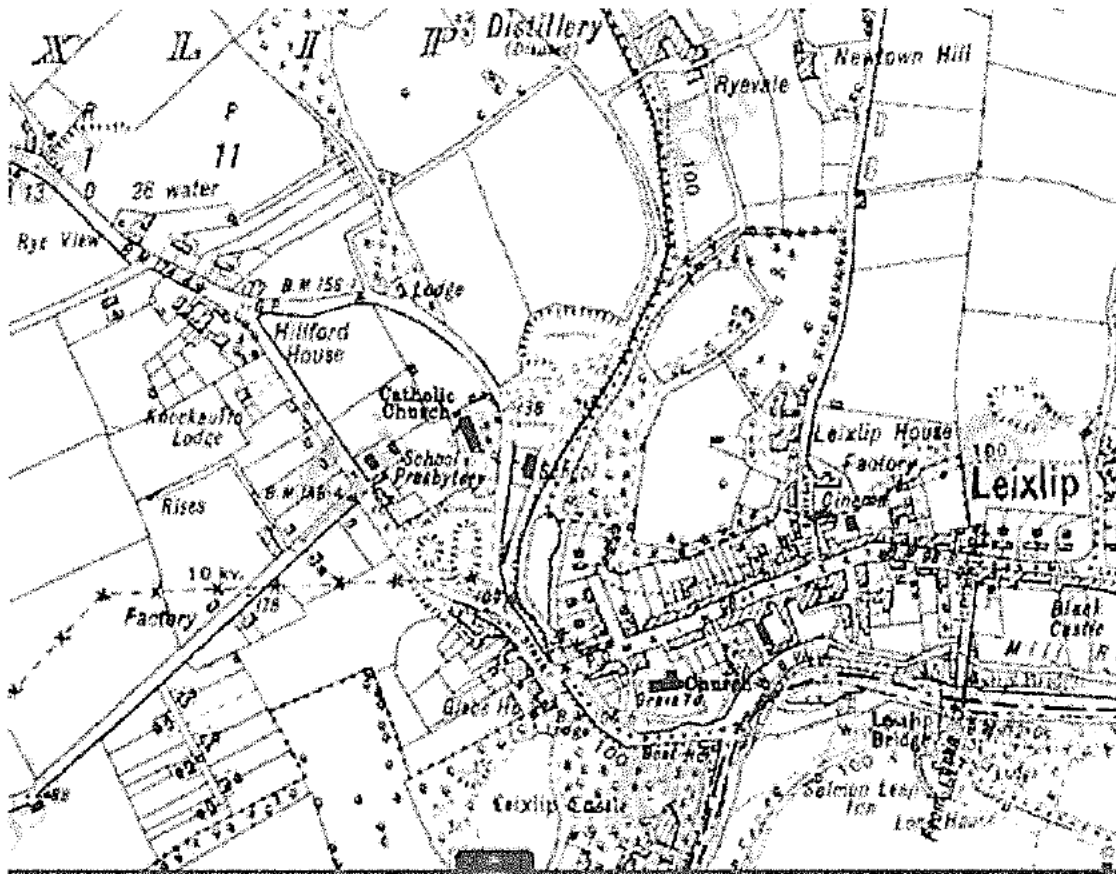


Fig. 20 OSI Map Survey Publication Date 1912 includes Hillford House

As the Hillford House name has been on the OSI map for over 100 years, and it has not been considered by Kildare County Council since PDA 2000, therefore it is not an appropriate revision 23 years later to include this property on the Record of Protected Structures.

Yours faithfully

Deirdre Conroy  
Barrister at Law

**Submission to Kildare County Council Requested by Current Owner and Signed**

Nayomi Duff

**Kildare County Council**  
Planning Department  
- 9 MAY 2021

