



Planning Ref: **FP2022/019**
(Please quote in all related correspondence)

24 May 2022

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W91X77F

Via consultation portal: <https://consult.kildarecoco.ie/en/>

Re: Notification under Section 12 (1) (b) of the Planning and Development Act, 2000 (as amended).

Re: Draft Kildare County Development Plan 2023-2029
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A chara

I refer to correspondence on 14th March received in connection with the above.

Outlined below are heritage-related observations/recommendations co-ordinated by the Development Applications Unit under the stated headings.

The Department welcomes the opportunity to engage with the Local Authority in relation to the Draft Kildare County Development Plan. Further to this letter the Department would welcome the opportunity to discuss any of the matters raised here if this would assist Kildare County Council in the process of preparing the County Development Plan.

Archaeology

The Department would like to draw attention to the following three errors in the draft text, which should be corrected.

Chapter 11: Built and Cultural Heritage.

CORRECTIONS:

Section 11.3: Legislative context:

Heading and end of first sentence: 11.3.1 - The correct date range for National Monuments legislation is 1930-2014.



Second paragraph: two months, not two weeks' notice must be given.

Section 11.5.2: The National Heritage Plan (2002):

Please note that the new National Heritage Plan, Heritage Ireland 2030, was approved by government in February 2022.

The Department also has the following suggestions in relation to revisions to the existing draft for your consideration:

SUGGESTED REVISIONS/EXTRA TEXT:

Section 11.3 Legislative context.

In section 11.3.1, after the first sentence, insert:

‘In summary, this provides legal protection for all archaeological objects, wrecks 100 or more years old and for a range of categories of monuments and places. Archaeological objects (which in broad terms includes all moveable objects of archaeological importance) are comprehensively protected under the National Monuments Acts.’

At the end of section 11.3.2, insert:

‘The Planning and Development Acts and Regulations contain further provisions relating to the protection of archaeological heritage in the course of particular planning cases. These include provisions making it clear that imposition of archaeological conditions on grants of planning permission does not create grounds for claims for compensation. Detailed provisions are also included, which ensure that planning applications for proposed development which would affect sites protected under the National Monuments Acts 1930 to 2014 or archaeological sites in general, are referred to the National Monuments Service.’

Section 11.4 International Policy Context:

Insert a reference to the Environmental Impact Assessment (EIA) Directive, as follows:

‘The EU Directive on EIA (which is given effect to in Irish law through a range of national legislation) clearly requires that EIA includes consideration of impact on archaeological heritage.’

Section 11.6 Development Proposals affecting archaeology:

The following should be inserted after the third sentence:

‘It is important that the archaeological potential of development sites should be addressed early in the design and planning process in order to ensure that archaeological remains are not damaged or destroyed and that completion of projects is not delayed.’

Objective AH 03:

At the start of the objective, insert:

‘In co-operation with the National Monuments Service, Department of Housing, Local Government and Heritage ...’



Objective AH 08:

At the end of the first sentence, insert:

‘.. and the National Monuments Service, Department of Housing, Local Government and Heritage’

CHAPTER 10: Community Infrastructure and Creative Places.

10.16 Places of worship/burial grounds:

Objectives:

Replace SC 097 with:

‘To protect historic graveyards, in co-operation with the National Monuments Service, Department of Housing, Local Government and Heritage, including through the avoidance of extensions to them that would have an inappropriate level of impact on sub-surface archaeological remains or on their setting or amenity and, in that regard, as an alternative to extensions to historic graveyards to endeavour to find alternative locations where additional land for burial is considered necessary.’

Add new objective, as follows:

‘To ensure that historic graveyards in the ownership or care of the local authority are managed and maintained in accordance with appropriate conservation standards and that local communities involved in care and maintenance of historic graveyards receive appropriate advice regarding such standards.’

Underwater Archaeology

Please note proposed insertions are underlined below.

Chapter 11: Built and Cultural Heritage

Aim: To protect, conserve and sensitively manage the built and cultural heritage of County Kildare and to encourage sensitive sustainable development so as to ensure its survival and maintenance for future generations.

11.1 General Heritage:

County Kildare has a rich and diverse heritage, which includes landscapes, countryside, archaeological sites (both terrestrial and underwater) and the built environment of towns and villages. Heritage is integral to the identity of any county. It provides the county with a strong sense of place, character and distinctiveness. Heritage protection is an integral part of sustainable development, it has environmental and quality of life benefits and also brings significant economic benefits. In 2022, the Government published the new National Heritage Plan - Heritage Ireland 2030 which is built around a vision of our heritage – in all its forms – being at the very centre of local and national discourse, valued by all and cared for and protected for future generations.



11.2 Archaeological Heritage:

Archaeological heritage consists of the material remains left behind by past societies and includes structures, places, caves, sites, features or portable objects, whether on land, underwater or in the intertidal zone. Kildare's irreplaceable archaeological heritage provides information on development through the millennia. Only a portion of the material remains of the past has survived, as many sites have disappeared from the landscape. Of those that do survive, some are visible in the landscape while others only survive beneath the current ground surface or have been remodelled within more modern buildings. All known archaeological sites are identified in the Sites and Monuments Record (SMR) (see www.archaeology.ie). Kildare's archaeology varies greatly in form, date and condition. Ranging from the Mesolithic Period (7000 BC) to the end of the Medieval Period (1700 AD), the archaeological record includes megalithic sites, Fulacht Fiadh, Early Christian ecclesiastical sites, churches and graveyards, medieval buildings, castles, industrial archaeology and underwater sites such as wrecks and objects. The Curragh is a significant archaeological and historical landscape within the county. The archaeological heritage is a resource that can be used to gain knowledge and understanding of the past and is, therefore, of great cultural and scientific importance.

11.3 Legislative Context:

11.3.1 National Monuments Acts 1930-2004:

Archaeological heritage is legally protected from unauthorised damage or interference through powers and functions under the National Monuments Acts 1930-2004. Section 12 of the National Monuments (Amendments) Act 1994 made provision for the compilation of all recorded sites and features of historical and archaeological importance in the county into the Record of Monuments and Places (RMP) (Appendix 5). Section 12 of the National Monuments (Amendment) Act 1994 requires an owner/occupier to give two weeks written notice of proposals to carry out works at or in relation to a recorded monument. Some archaeological structures within the county may, in some situations, also be considered as architectural heritage and may therefore appear on both the Record of Monuments and Places (RMP) and the Record of Protected Structures (RPS). Accordingly, these structures are protected by both the National Monuments Acts and the Planning and Development Acts 2000 (as amended). The National Monuments Acts provide for the protection of all archaeological heritage, whether known, newly discovered, or yet to be discovered (e.g. through ground disturbance, fieldwork, or the discovery of sites underwater).

Wrecks over 100 years old and archaeological objects underwater, irrespective of their age or location, are protected under Section 3 of the National Monuments (Amendment) Act 1987. Wrecks that are less than 100 years old and the potential location of wrecks or archaeological objects may also be protected under Section 3 of the 1987 (Amendment) Act by the placement of an underwater heritage order if the wreck, area or object is considered to be of sufficient historical, archaeological or artistic importance to merit such protection.

Diving or general interference with any wreck which is more than one hundred years old or an archaeological object which is lying on, in or under the sea bed or on or in land covered by water is prohibited except in accordance with a licence issued by the Minister for Housing, Local



Government and Heritage under Section 3 (5) of the Act. A licence is also needed under the same provisions of the Act to survey a wreck or archaeological object or a wreck that is protected by an underwater heritage order. Therefore a licence is required to dive, survey or disturb any protected wreck site or for targeted searches for archaeological objects underwater. The Minister may, at their discretion, grant or refuse to grant a licence and may attach appropriate conditions which are legally binding and specified in the licence.

11.3.2 Planning and Development Act 2000, as amended:

Section 10 of the Planning and Development Act 2000, as amended, sets out a list of mandatory objectives to be included in a development plan. A number of these relate to the conservation of the natural heritage and for the conservation of European sites and any other sites which may be prescribed.

11.4 International Policy Context

11.4.1 The European Convention on the Protection of the Archaeological Heritage, 1992 - the Valletta Convention (ETS No. 143):

The Valetta Convention was ratified by Ireland in 1997. It relates to the protection of archaeological heritage and includes the setting and context of archaeological sites. The Convention provides the basic framework for policy on the protection of archaeological heritage as a source of the European collective memory. The State undertakes to seek to reconcile and combine the respective requirements of archaeology and development plans by ensuring that archaeologists participate in planning policies, development schemes, development plans, environmental impact assessments and recommendations regarding the retention of elements of the archaeological heritage in-situ.

11.4.2 European Landscape Convention, 2000 – the Florence Convention (ETS No. 176):

This Convention defines landscape as ‘...an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors’ and applies to both rural and urban landscapes. The Convention requires landscape to be integrated into planning policies and promotes interaction between local and central authorities, and trans-frontier co-operation to protect landscapes.

11.5 National, Regional and County Policy Context

11.5.1 Framework and Principles for the Protection of the Archaeological Heritage (1999):

This Framework and these principles which stipulate the basic principles for the protection of archaeological heritage are based on a presumption of avoiding development impacts on archaeological heritage with preservation in-situ being the first option followed by preservation by record where the archaeological heritage is affected or proposed to be affected by the development. The Framework and Principles for the Protection of the Archaeological Heritage (1999) published by the Department of Heritage, Gaeltacht and the Islands outlines guiding policies for the protection of the archaeological heritage of Ireland.



11.5.2 Heritage Ireland 2030 (2022):

Heritage Ireland 2030 is a cross-Government Strategic Policy for Heritage that sets out a framework for the protection, conservation, promotion and management of Ireland's heritage for the next decade and beyond. The Strategy lays out a roadmap for the best possible future for Irish heritage with a joined up approach at government, stakeholder and community levels. A comprehensive implementation plan is now being developed to deliver on its actions. The principal themes of the strategy are communities, leadership and partnerships, reflecting the importance of ongoing collaboration between government and communities, stakeholders, citizens and local authorities in delivering upon the objectives of this strategy.

11.5.3 Eastern and Midlands Regional Spatial and Economic Strategy (RSES) (2019-2031):

The RSES acknowledges that the region's historic environment provides a unique sense of place and makes a positive contribution to quality of life. The RSES highlights the importance of incorporating best practice in heritage management into land use planning through the protection of historic urban fabric, the sensitive reuse of historic properties, the enhancement of places of special cultural or natural significance and the provision of high-quality public realm and recreational spaces. It is a regional policy objective to promote historic towns in the Region in the practice of heritage-led generation, to promote sensitive and adaptive re-use of historic building stock, industrial features and protected structures and to support the designation of UNESCO candidate sites in the Region.

11.5.4 County Kildare Heritage Plan (2019-2025):

On foot of the National Heritage Plan Kildare County Council prepared a County Kildare Heritage Plan which comprises a six-year action plan for the conservation, preservation and enhancement of Kildare's heritage including natural heritage. It is an objective of this County Development Plan to review the County Kildare Heritage Plan.

11.5.5 National Climate Change Sectoral Adaptation Plan for Built and Archaeological Heritage (2019):

The local authority will co-operate with other agencies in the investigation of climate change on archaeological sites and monuments and to develop suitable adaptation measures to strengthen resilience and reduce the vulnerability of archaeological heritage in line with the National Climate Change Sectoral Adaptation Plan for Built and Archaeological Heritage (2019). Development, including infrastructure responding to the mitigation of flooding resulting from climate change can lead to impacts on both recorded and unrecorded archaeological and cultural heritage. The Council will seek to protect, preserve and promote the underwater heritage of County Kildare. Where flood relief schemes are being undertaken the Council will have regard to the Archaeological Guidelines for Flood Relief Schemes (Department of Housing, Local Government and Heritage 2022).

11.6 Development proposals affecting archaeology:

Various types of development can impact on the visual appreciation, setting and amenity of recorded monuments. Such impacts should be adequately assessed and, where possible, eliminated or minimised. Previously unidentified archaeological sites may be uncovered during



development works, while archaeological deposits that would be damaged by development must be investigated and recorded in great detail. Any proposed development (due to its location, size or nature) with the potential to affect the archaeological heritage resource will be subject to an Archaeological Impact Assessment. This includes proposals close to archaeological monuments, proposals extensive in area (half a hectare or more) or length (1 km or more) or that includes works within rivers or lakes and development that requires an Environmental Impact Assessment. Other areas of high archaeological potential may exist outside the boundaries of conventionally recognised monuments, especially graveyards and monastic sites, in rivers or lakes, wetlands, former wetlands and in the inter-tidal zone, which may also require the preparation of Archaeological Impact Assessments and Underwater Archaeological Impact Assessments.

11.7 Industrial archaeology:

In 2007, an Industrial Archaeology Survey of County Kildare was commissioned by Kildare County Council on behalf of the County Kildare Heritage Forum, as an action of the County Kildare Heritage Plan. The project collated all paper-based information relating to industrial heritage sites in the County. The project outputs were a report outlining approximately 2,462 features of industrial heritage interest in an accompanying database and a digital map of the recorded locations. When considering development proposals that may affect sites identified in the Kildare Industrial Archaeology Survey (2007), the Council will require an Industrial Archaeology Assessment.

11.8 underwater archaeology:

County Kildare's rivers, lakes and wetlands contain many features and finds associated with its underwater heritage, such as walls, fords, stepping-stones and associated archaeological objects and features. Section 3 of the National Monuments (Amendment) Act 1987 makes specific provisions for the protection of shipwrecks and underwater archaeological objects, whereby, all wrecks over 100-years old are legally protected. The Wreck Inventory of Ireland Database (WIID) holds records of over 18,000 known and potential wreck sites and this is used as a tool to help manage and protect historic wrecks.¹ Development in off-shore and coastal waters, tidal estuaries and rivers areas which have the potential to impact on both known and potential terrestrial and underwater archaeology will require appropriate underwater archaeological assessment and the Council will seek and have regard to the advice and recommendations of the Department of Housing, Local Government and Heritage relating to all developments within these environments.

11.9 Conservation Plans:

The purpose of any conservation plan is to describe the significance of a heritage site, assess the issues that make the site vulnerable and put in place policies to address those issues. A number of Conservation Plans have been prepared for sites in the county, including The Curragh, The Wonderful Barn, Castledermot Town Walls, Kildare Town Walls and Athy Town Walls. In

¹ [https:// archaeology.ie/underwater-archaeology/wreck-viewer](https://archaeology.ie/underwater-archaeology/wreck-viewer)



considering development proposals, the Council will have regard to any existing and forthcoming conservation plans prepared as part of the County Kildare Heritage Plan 2019-2025.

Policy:

It is the policy of the Council to:

AH P1 Recognise the value and opportunity of Kildare's unique heritage resource and to manage, conserve, promote and protect it, for present and future generations.

Objective:

It is an objective of the Council to:

AH O1 Implement the actions of the County Kildare Heritage Plan 2019-2025 and subsequent heritage plans, in partnership with all relevant stakeholders.

Policy:

It is the policy of the Council to:

AH P2 Protect and enhance archaeological sites, monuments and where appropriate and following detailed assessment, their setting, including those that are listed in the Record of Monuments and Places (RMP) or newly discovered archaeological sites and/or subsurface and underwater archaeological remains.

Objectives:

It is an objective of the Council to:

AH O2: Manage development in a manner that protects and conserves the archaeological heritage of County Kildare, avoids adverse impacts on sites, monuments, features or objects of significant historical or archaeological interest and secures the preservation in-situ or by record of all sites and features of historical and archaeological interest, including underwater cultural heritage. The Council will favour preservation in-situ in accordance with the recommendation of the Framework and Principles for the Protection of Archaeological Heritage (1999) and the Council will seek and have regard to the advice and recommendations of the Department of Housing, Local Government and Heritage.

AH O3: Require archaeological impact assessment, surveys, test excavation and/or monitoring and/or underwater archaeological impact assessments for planning applications in areas of archaeological importance and where a development proposal is likely to impact upon in-situ archaeological monuments, their setting and archaeological deposits, based on recommendations of a suitably qualified archaeologist and the Council will seek and have regard to the advice and recommendations of the Department of Housing, Local Government and Heritage.

AH O4: Ensure that development in the vicinity of a site of archaeological interest is not detrimental to the character of the archaeological site or its setting by reason of its location, scale, bulk or detailing and to ensure that such proposed developments are subject to an archaeological assessment prepared by a suitably qualified archaeologist. Such an assessment will seek to ensure that the development can be sited and designed in such a way as to avoid



impacting on archaeological heritage that is of significant interest including previously unknown sites, features and objects and areas of underwater archaeological heritage.

AH O5: Require the preservation of the context, amenity, visual integrity and connection of the setting of archaeological monuments. As a general principle, views to and from archaeological monuments shall not be obscured by inappropriate development. Where appropriate, archaeological visual impact assessments will be required to demonstrate the continued preservation of an archaeological monument's siting and context.

AH O6: Secure the preservation in-situ or by record of:

- the archaeological monuments included in the Record of Monuments and Places as established under section 12 of the National Monuments (Amendment) Act, 1994
- any sites and features of historical and archaeological interest, including underwater cultural heritage and protected wrecks.
- any subsurface archaeological features, including those underwater, that may be discovered during the course of infrastructural/development works in the operational area of the Plan. Preservation relates to archaeological sites or objects and their settings.

AH O7: Contribute towards the protection and preservation of the archaeological value of underwater or archaeological sites associated with rivers and associated features. To protect, preserve and promote the underwater archaeological heritage of County Kildare. To seek and have regard to the advice and recommendations of the Department of Housing, Local Government and Heritage relating to all developments with potential underwater impacts, including flood relief schemes.

AH O8: Protect historic burial grounds that are recorded monuments and encourage their maintenance in accordance with best conservation principles in co-operation with the Historic Monuments Advisory Committee. Development may be restricted or conditions requiring substantial excavation may be imposed in and adjacent to former burial grounds.

AH O9: Promote and support in partnership with the National Monuments Section of the Department of Housing, Local Government and Heritage (DHLGH), the concept of Archaeological Landscapes where areas contain several Recorded Monuments.

AH O10: Require that all development proposals for industrial buildings and sites identified in the Kildare Industrial Archaeology Survey (2007) or otherwise identified as being of industrial archaeological importance be accompanied by an industrial archaeology assessment of the surrounding environment. New development should be designed in sympathy with and to protect existing features and structures.

Actions:

It is an action of the Council to:



AH A1: Where possible, facilitate and enhance public access to and understanding of the archaeological heritage and disseminate archaeological information and advice to prospective developers and the general public.

AH A2: Identify appropriate archaeological sites in the Plan area to which public access could be provided and work to secure public access, where appropriate, in consultation with the landowners.

AH A3: The Council will support and encourage the provision of signage to publicly accessible recorded monuments.

AH A4: The Council will support the implementation of the recommendations of the Curragh Conservation, Management and Interpretation Plan, when, prepared, in association with relevant stakeholders, within the lifetime of this Development Plan.

11.13 Features of Historical Interest

Features of historical interest contribute to the character, interest, and visual amenity of towns and villages in Kildare and are therefore worthy of retention and protection.

Policy:

It is the policy of the Council to:

AH P5: Secure the identification, protection and conservation of historic items and features of interest throughout the county including street furniture, surface finishes, roadside installations, items of industrial heritage, riverine heritage and other stand-alone features of interest (items not listed on the RMP or RPS).

Objective:

It is an objective of the Council to:

AH O17: Ensure that development within the county including Council development retains, refurbishes and incorporates features of historical interest, as deemed appropriate in each instance.

Action:

It is an action of the Council to:

AH A7: Develop a database of features of historical interest including street furniture, surface finishes, roadside installations, items of industrial heritage, riverine heritage and other stand-alone features of interest (items not listed on the RMP or RPS) within villages and towns in County Kildare and ensure they are included in relevant Local Area Plans.

Architectural Heritage

The newly launched National Policy on Architecture, 'Places for People', will promote public engagement with architecture, empower the architectural profession (especially within the public service), raise design quality, and improve data and research on our built environment. It



will outline the need to support architects and built environment professionals to work together to achieve a high quality living environment for everyone, bringing economic, social and environmental benefits to cities, towns, and rural communities across Ireland through the delivery of sustainable, high-quality buildings and public spaces.

The Department would appreciate if the Kildare County Development Plan could express the Local Authority's support for the implementation of this national policy.

Please Note:

In the following, suggested text additions are underlined; text suggested for removal is deleted. Certain items in the Draft, such as labourers' cottages, traditional shopfronts, street furniture and road surfaces are not vernacular and should be covered under general architectural heritage, not vernacular architecture.

11.17 Built Vernacular Heritage

Vernacular architecture is generally, defined as the homes and workplaces of the general population built by local people using local materials and, most importantly, drawing on longstanding tradition. This is in contrast to formal architecture, such as the grand estate houses of the gentry, churches and public buildings, which were often designed by architects or engineers. The majority of vernacular buildings are domestic dwellings. Examples of other structures that may fall into this category include outbuildings, mills, limekilns, farmsteads, forges, gates and gate piers.

This architecture was once commonplace, but is vulnerable and has become increasingly rare. The loss of thatched roofs in the county is increasing and every effort will be made by the Council to encourage and facilitate the survival of the remaining examples. The Council through its Heritage Plan carried out a survey of thatched roofs in 2005. The survey revealed that the number of thatched roofs decreased from 92 in 1987 to 55 in 2005.

The traditional farm complexes and historic agricultural buildings of Kildare are also under increasing threat as they are seen to be no longer economically viable as part of the modern farm. Often these farm buildings are located on the site of an inhabited main house or active farm but have become redundant and derelict. Generally, these structures are of mud-wall or rubble stone construction with external lime renders. The Council will encourage the appropriate re-use of these structures rather than their replacement or dereliction. Reference in this regard should be made to Reusing Farm Buildings, A Kildare Perspective (2007) published by Kildare County Council.

The loss of vernacular architecture is seen not only in the loss of entire buildings but also in the gradual attrition of details such as the replacement of roof coverings and windows with modern materials, removal of external render, inappropriate re-pointing and the addition of inappropriate extensions. Alterations to individual buildings can have a significant and cumulative effect on streetscapes and landscapes. By the very nature of vernacular architectural heritage, it is normally the case that they are the most sustainable forms of construction, built



with local materials in a style responding to local conditions, with a low energy use. Many of our surviving examples of vernacular architecture are homes and places of work, which by definition need to evolve with a changing society to facilitate ongoing occupancy and survival. Any such changes need to be sympathetic to the special features and character of the building.

Policy

It is the policy of the Council to:

AH P9

Promote the protection, retention, appreciation and appropriate revitalisation of the vernacular heritage of the county.

Objectives

It is an objective of the Council to:

AH O48

Ensure that an assessment of the existing buildings on site is undertaken through an analysis of historic maps and an appraisal of the historic fabric and features. Development proposals should retain and incorporate existing buildings of merit and any elements that contribute to their distinctive character.

AH O49

Have regard to guidance in the DHLGH Guidelines and conservation best practice in assessing proposed interventions to vernacular structures, traditional farmhouses, their curtilage, out buildings and settings.

AH O50

Resist the demolition of built vernacular heritage, in particular thatched houses, and to encourage their sensitive reuse having regard to the intrinsic character of the structure and the potential to prolong the life cycle of the embodied carbon contained within the structure.

AH O51

Require that a sustainable use and appropriate maintenance plan is in place for earlier dwellings of heritage interest on farms or rural sites, where planning permission is sought for a new dwelling.

AH O52

Require the submission of a written report from a suitably qualified professional where it is proposed to redevelop a derelict property or one that has been unoccupied for a long period of time. The report must demonstrate that any proposal will not structurally compromise the subject building and shall outline the measures to be taken in order to protect the building from collapse, both prior to and during construction works.

AH O53



Have regard to guidance in *The Thatched Houses of Kildare* (2005) and *Reusing Farm Buildings, A Kildare Perspective* (2007) published by Kildare County Council and *A Living Tradition – A Strategy to Enhance the Understanding, Minding and Handing of our Built Heritage* (2021) published by the Department of Housing, Local Government and Heritage in assessing planning applications relating to vernacular buildings, thatched cottages, and traditional farm buildings.

AH O54

Respect the setting, form, scale and materials of existing vernacular structures and to only permit changes to these structures where they are sympathetic to their special features and character.

AH O55

Preserve the character, including original building features or materials, such as windows, doors, roof coverings and setting (e.g. gates, gate piers, boundary treatments, courtyards etc.) of vernacular buildings, where deemed appropriate by the planning authority. Proposals for extensions to historic or vernacular buildings should not erode the setting and design qualities of the original structure and should be in proportion or subservient to the existing building.

AH O56

Require the use of appropriate materials and methods when undertaking repairs to the historic fabric.

AH O57

Protect (through the use of ACAs, the RPS and in the normal course of development management) vernacular buildings where they contribute to the character of areas and/or where they are rare examples of a structure type.

AH O58

Ensure that new buildings adjacent to vernacular structures and extensions to vernacular buildings are of an appropriate design and do not detract from the character of these structures.

Actions

It is an action of the Council to:

AH A17

Develop and publish guidelines on the conservation and appropriate re-use of vernacular structures.

Nature Conservation

Context of observations

The following observations are made by the Department in its role as the authority with overarching responsibility for nature conservation and the nature directives (i.e. the EU Birds



Directive (2009/147/EC) and Habitats Directive (92/43/EEC)). The observations are not exhaustive but are intended to assist Kildare County Council in meeting its obligations in relation to nature conservation, European sites, biodiversity and environmental protection in the process of preparing the County Development Plan 2023-2029 for County Kildare, hereafter referred to as the CDP.

This submission follows the chapter headings in Volume 1 Written Statement of the CDP. Matters relating to appropriate assessment and Strategic Environmental Assessment are included in the chapter relevant to the comments.

1. Introduction and Context

The Department welcomes the Strategic Vision for County Kildare, particularly Kildare County Council's pledge to improve the quality of life of all residents by enhancing the County's natural environment for future generations. This opening statement is an indication of the council's commitment to providing a healthy natural environment for all.

Biodiversity Crisis

We are in the midst of a national and global biodiversity crisis and are losing nature at an alarming rate. Recognising this, Kildare County Council declared a Climate Change and Biodiversity Loss Emergency in June 2019. The protection, conservation and enhancement of biodiversity underpins ecosystem services, such as crop pollination and soil fertility maintenance, vital to our food security. Other ecosystem services dependant on biodiversity maintenance include climate change mitigation and adaption, health and well-being benefits, flood protection and air and water purification. The link to sustainable development is clear. Protection, conservation and enhancement of biodiversity will help create the foundations for a 'smart' and 'green' economy.

Taking this into account, the Department recommends the inclusion of an overarching guiding principle to conserve, protect and enhance biodiversity during the plan period. This is particularly important in the case of Kildare's biodiversity, much of which lies outside statutorily protected nature conservation sites. It is also in accordance with Regional Strategic Outcome 11 of the Regional Spatial & Economic Strategy (RSES) for the Eastern and Midland Region (EMRA) to '*Promote co-ordinated spatial planning to conserve and enhance the biodiversity of our protected habitats and species including landscape and heritage protection*'.

National Biodiversity Action Plan (NBAP) 2017 - 2021

The National Biodiversity Action Plan (NBAP) captures the objectives, targets and actions for biodiversity that will be undertaken by a wide range of government, civil society and private sectors to achieve Ireland's Vision for Biodiversity. Objective 1 of the NBAP is to '*Mainstream biodiversity into decision making across all sectors*'. Kildare County Council should set objectives in the CDP to implement and monitor the actions as set out in the National Biodiversity Action Plan 2017-2021, and any subsequent plan.



Objective 1.1.3 of the NBAP requires all Public Authorities and private sector bodies to move towards no net loss of biodiversity through strategies, planning, mitigation measures, appropriate offsetting and/or investment in Blue-Green infrastructure. The Department advises the inclusion of a no net loss biodiversity target for all developments, activities, programmes and plans arising from this CDP.

The Department advises that objectives related to biodiversity and ecosystem conservation, protection, enhancement and restoration should be separated from objectives related to other matters such as amenity provision and landscape both in the CDP and settlement plans. This would assist the Council in securing and monitoring the implementation of the policies and objectives of this CDP and in the Department's monitoring of the NBAP which includes the performance indicator '*Number of explicit policies and objectives for biodiversity and ecosystem services in County Development Plans and other local plans per Local Authority*'.

2. Core Strategy - no comments

3. Housing

With regard to Objective HO O50 '*Require that all applications demonstrate the ability to provide safe vehicular access to the site where the necessity to remove extensive stretches of native hedgerow and trees or can demonstrate existing hedgerow is not native and provide a landscape design to reinstate a hedgerow to outline proposals for replacement of same or comparative*', the Department recommends that '*extensive stretches of native hedgerow*' is defined in metres. It is suggested that the phrase '*where the necessity to remove*' may be a typo and should read '*without the necessity to remove*'. The word '*comparative*' should be replaced with '*enhanced*'. It is suggested that the biodiversity value of existing hedgerows is emphasised and not whether they contain native species. It is further suggested that '*native*' is inserted before '*hedgerow*'.

Section 3.13.5 Restoration/Refurbishment of Traditional Structures

The Department recommends that consideration should be given to the protection of bat species, all of which are listed on Annex IV of the Habitats Directive, to ensure that the strict protection afforded to these species is met. The council should consult with the recent Department publications including '*Guidance on the Strict Protection of Certain Animal and Plant Species under the Habitats Directive in Ireland*'². The Department advises that planning applications relating to the restoration and re-use of vernacular structures and houses in the countryside must be accompanied by a bat survey report, as required and appropriate.

4. Resilient Economy & Job Creation – no comments

5. Sustainable Mobility & Transport

² Mullen, E., Marnell, F. & Nelson, B. (2021) Strict Protection of Animal Species. National Parks and Wildlife Service Guidance, No. 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage <https://www.npws.ie/sites/default/files/files/article-12-guidance-final.pdf>



The Department considers that objective TM A16 *'Provide new or upgraded lighting for all footpath and cycle track schemes subject to the consideration of ecology and impacts on wildlife. Appropriate environmental assessments will be required and may result in unlit sections which may include some parts of the county's Greenways'* should be amended. Reported declines in insect populations have sparked global concern, with artificial light at night (ALAN) identified as a potential contributing factor. Recent scientific evidence³ indicates that ALAN and the ongoing shift toward white LEDs (i.e., from narrow- to broad-spectrum lighting) will have substantial consequences for insect populations and ecosystem processes. The Department advises that there should be a presumption against the lighting of entire footpaths and cycle tracks, in areas with low or no levels of background light. It is in these situations that the introduction of artificial light will have the most significant negative impacts on wildlife and biodiversity. It is noted that recent Greenway proposals in adjoining counties such as South Dublin County Council have omitted lighting due to its proven impact on bat species.

6. Infrastructure & Environmental Services

With regard to Objective IN O6 *'Require an undisturbed edge or buffer zone to be maintained, where appropriate, between new developments and riparian zones of water bodies to maintain the natural function of existing ecosystems associated with water courses and their riparian zones, and to enable sustainable public access'*, the Department recommends that the phrase 'where appropriate' should be removed. The Department recommends that clarification is needed as to whether this is a streamside buffer as defined in Inland Fisheries Ireland Guidance: Planning for Watercourses in the Urban Environment (2020). If so, the Department recommends the removal of the phrase 'and to enable sustainable public access' as this would lead to recreational disturbance within this zone.

6.6 Surface Water/Drainage

The Department welcomes Policy IN P4 *'Ensure adequate surface water drainage systems are in place which meet the requirements of the EU Water Framework Directive and the River Basin Management Plan in order to promote the use of Sustainable Drainage Systems'*.

The design of Sustainable Drainage Systems (SuDS) is best addressed at a macro level and consolidated solutions should be examined which allow for the aggregation of SuDs measures rather than a fragmented and phased approach. This is particularly relevant to land zoned for development within the groundwater catchment of Pollardstown Fen Special Area of Conservation (SAC) as well as designated raised bogs and other Ground Water Dependant Terrestrial Ecosystems and should be considered as part of proposed statutory Local Area Plans in this catchment. The recently published Departmental Interim Guidance Document *'Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas – Best Practice'*⁴ should be consulted. This Interim Guidance Document sets out the various steps

³ Boyes, D.H. et al. (2021) Street Lighting has detrimental impacts on local insect populations, Science Advances; 7.

⁴ <https://www.gov.ie/en/publication/10d7c-nature-based-solutions-to-the-management-of-rainwater-and-surface-water-runoff-in-urban-areas-best-practice-interim-guidance-document/>



that can be taken to achieve a plan and design-led approach in the context of current planning policy.

The Department welcomes objective IN O24 *'Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution'*. To encourage the planning of SuDs measures which favour biodiversity at an early stage, the Department recommends that a SuDs checklist is included with planning applications, as appropriate, outlining all SuDs measures considered and the reasons for selecting/not selecting each measure.

6.7 Flood Risk Management

The Department wishes to make the following comments in relation to Objective IN O34 *'Require that development along urban watercourses comply with the Inland Fisheries Ireland Guidance: Planning for Watercourses in the Urban Environment (2020), including the maintenance of a minimum riparian zone of 35 metres for river channels greater than 10 metres in width, and 20 metres for river channels less than 10 metres in width. Development within this zone will only be considered for water compatible developments as defined in the OPW Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)'*:

OPW guidelines relate to flood risk zones which are not likely to cover the same area as riparian zones as outlined in Inland Fisheries Ireland (IFI) guidance. For example, a flood zone where the probability of flooding from rivers is low (less than 0.1% or 1 in 1000) could extend much further than the riparian zone. Therefore, to avoid confusion, the Department advises that the two zoning systems must not be included under a single objective. The IFI guidance lists development appropriate to riparian zones and these uses should be referred to in IN 034.

The OPW guidance states that developments should preferentially be located in areas with little or no flood hazard thereby avoiding or minimising the risk. The Department advises that water compatible development must only be considered following appropriate flood risk assessment including the carrying out of a justification test. The council should note that the uses listed as 'Water Compatible' in the OPW Guidance is not definitive and other uses should be considered on their own merits following the necessary flood risk assessment.

Natural Water Retention Measures (NWRM) are multi-functional measures that aim to protect water resources and address water related challenges by restoring or maintaining ecosystems as well as natural features and characteristics of water bodies using natural means and processes. Typical NWRM include riparian woodlands, agricultural and upland drainage modifications, non-floodplain wetlands, instream structures (e.g. large woody debris), and offline storage ponds. The Department recommends that Kildare County Council includes an objective to support the conservation, protection and enhancement of NWRM, as appropriate to the individual catchment.

With regard to Action IN A4 *'Prepare and carry out any identified actions of a maintenance programme for river channels, including those identified as historical drainage districts, the*



responsibility for which lies with Kildare County Council, such actions must be subject to Ecological Impact Assessment and Appropriate Assessment in accordance with the EU Habitats Directive.

6.8.2 Pollution Control – Water, Air, Noise and Light

Reported declines in insect populations have sparked global concern, with artificial light at night (ALAN) identified as a potential contributing factor. Recent scientific evidence⁵ indicates that ALAN and the ongoing shift toward white LEDs (i.e., from narrow- to broad-spectrum lighting) will have substantial consequences for insect populations and ecosystem processes.

7. Energy & Communications

7.5 Wind Energy

Regarding Objective EC O16 *‘Require comprehensive winter and summer bird and wildlife surveys for all proposed wind farms sites, so that impacts on wildlife can be fully assessed and evaluated and so that appropriate mitigation and adaptation measures can be considered, to include for example removal or repositioning of turbines, introducing one black painted rotor blade (to reduce motion smear and reduce incident of collision) or the provision of technologies that help minimize harm to birds and other wildlife’*, the Department has the following comments to make:

Planning applications must include bat survey and impact assessment, including modelling, if required as well as mitigation. Bird survey must include collision risk modelling, as required. Applications must also include compressive habitat assessment. Habitats listed on Annex I of the EU Habitats Directive must be identified, qualified and evaluated. Planning applications must include detailed bird and bat monitoring programmes. The impacts of aviation lighting on wind turbines must be assessed. The connectivity with Special Protection Areas (SPAs) for birds must be assessed. Post construction bird and bat collision monitoring using standardised methods must be carried out and reports retained by Kildare County Council so that a body of scientific evidence is gathered and can be analysed to refine impact assessment.

7.6 Solar Energy

The Department advises that solar energy projects must be subject to Ecological Impact Assessment. Retention and appropriate management of existing habitats should be favoured instead of planting of introduced pollinator friendly species to maintain and restore the existing seedbank and local biodiversity. Planning applications should include appropriately detailed habitat management and restoration plans (including cutover bog restoration), as required and appropriate.

7.12.7 Peatlands

The Department welcomes Policy EC P17 *‘Support the preparation of a comprehensive “after use” framework plan for the industrial peatlands and associated workshops, office buildings,*

⁵ Boyes, D.H. et al. (2021) Street Lighting has detrimental impacts on local insect populations, Science Advances; 7.



industrial sites and power stations in Kildare, acknowledging the significant contribution that these expansive lands make towards the special landscape of the Bog of Allen’.

The Department would like to highlight the importance of peatland habitats within the county, particularly cutover bogs. Development proposals on designated and non-designated peatlands may be subject to the requirements of the planning code, the Environmental Impact Assessment (EIA) Directive, (including EIA screening requirements and EIA where applicable), and the requirements of the Habitats Directive (including the need for screening for Appropriate Assessment (AA) and AA), as appropriate.

It is recommended that the CDP includes an objective to support the implementation of the National Raised Bog Special Areas of Conservation Management Plan 2017-2022. Included in the National Raised Bog Special Areas of Conservation Management Plan 2017-2022 are the objectives to responsibly manage, protect, enhance, restore and rehabilitate raised bog habitat in recognition of its contribution to society, climate action, the environment and the economy. In that context, the National Raised Bog Special Areas of Conservation Management Plan 2017–2022 sets out how the raised bog Special Areas of Conservation are to be managed, conserved and restored and how the needs of turf cutters are to be addressed.

8. Urban Centres & Retail – no comments

9. Our Rural Economy

9.4 Agriculture/ Agri-Food Sector

Nitrogen deposition is one of the leading causes of global decline in biodiversity alongside changing land use and climate⁶. Intensive agriculture is a major source of nitrogen deposition with vehicular traffic also contributing. Natura 2000 sites (SACs/SPAs), which are intended to protect important habitats and species across Europe, require strict levels of protection to ensure designated features achieve favourable conservation status. Many of these sites are nitrogen-limited, and/or contain sensitive species such as lichens or mosses. Details of nitrogen deposition mapping and impacts on habitats are included in the Department’s latest Article 17 report⁷. Impacts of nitrogen deposition include acidification and eutrophication resulting in biodiversity loss.

9.8 Bogs and Peatlands

In relation to Objective RD O27 *‘Encourage the re-wetting, restoring and/or re-wilding of former cutaway bogs and peatlands with an emphasis on promoting biodiversity and carbon sequestration’*, the Department considers that special consideration should be given to larger bogs. In the long term these larger sites would provide greater stability for wildlife populations and have a greater ability to sustain biodiversity. For example, Kilberry Bog has an area of approximately 10 km² and if rewetted, restored and rewilded would contribute hugely to the

⁶ Kelleghan, D. et al., (2021) Atmospheric ammonia and nitrogen deposition on Irish Natura 2000 sites: Implications for Irish agriculture, Atmospheric Environment 261
<https://www.sciencedirect.com/science/article/pii/S1352231021004337>

⁷ NPWS (2019) The status of EU Protected Habitats and Species in Ireland. Volume 2. Habitat Assessments. Unpublished NPWS report. Edited by Deirdre Lynn and Fionnuala O’Neill.



restoration of biodiversity in the county, which has seen that extinction and near extinction of some iconic bogland species such as red grouse and breeding curlew.

With regard to Objectives RD O28 *‘Work with all relevant stakeholders including Bord na Móna to support the sustainable re-use of circa 30-50% of cutaway boglands for economical purposes’* and RD O29 *‘Support the development of renewable energy (wind and solar) on a percentage/no more than 50% of former industrial peatlands/cutaway bogs, in appropriate locations, subject to relevant environmental assessments’* the Department has the following comments to make:

The potential for renewable energy projects on cutaway peatlands is considered within a number of national strategies and plans such as the National Peatlands Strategy 2015⁸ (NPS), the National Planning Framework (NPF) 2040⁹ and the Regional Spatial and Economic Strategies for the Eastern and Midland Region¹⁰. These plans and strategies recognise the need to develop a long term strategic plan for cutaway and cutover peatlands and are committed to the preparation of a comprehensive after-use framework for peatlands that will involve all stakeholders. This need is echoed in CDP Policy EC P17 *‘Support the preparation of a comprehensive “after use” framework plan for the industrial peatlands and associated workshops, office buildings, industrial sites and power stations in Kildare, acknowledging the significant contribution that these expansive lands make towards the special landscape of the Bog of Allen’*.

In the absence of a comprehensive after use framework for peatlands including required environmental assessments, the Department suggests that it may be premature to allocate a specific percentage of former industrial peatlands/cutaway bogs to renewable energy and economic development in the CDP.

Cutover bogs, despite being degraded from the original raised bog habitats, are bastions of biodiversity within Kildare outside of the protected sites. They are generally large areas of semi-natural wilderness. They have the potential to reduce the impact of the biodiversity crisis within County Kildare. Furthermore, in accordance with Principle P17 of the National Peatlands Strategy *in deciding on the most appropriate afteruse of cutaway peatlands, the council should consider encouraging, where possible, the return to a natural functioning peatland ecosystem’*.

10. Community Infrastructure & Creative Places – no comments

11. Built & Cultural Heritage – no comments

12. Biodiversity & Green Infrastructure

⁸ Department of Arts, Heritage and the Gaeltacht, National Peatlands Strategy 2015, WINDFARMS page 029 and Actions 8 and 9 page 031 -032.

<https://www.npws.ie/sites/default/files/publications/pdf/NationalPeatlandsStrategy2015EnglishVers.pdf>

⁹ Government of Ireland, National Planning Framework 2040, Energy Production page 77. <https://npf.ie/wp-content/uploads/Project-Ireland-2040-NPF.pdf>

¹⁰ Eastern and Midlands Assembly-Regional Spatial and Economic Strategy 2019-2031, RPO4.84 page 97 and RPO7.29 page 171. https://emra.ie/dubh/wp-content/uploads/2020/05/EMRA_RSES_1.4.5web.pdf



Section 12.3.4

Section 1(3) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021 provides that (3) Chapter 3 of Part 2 [of that Act] and the Wildlife Acts 1976 to 2018 may be cited together as the Wildlife Acts 1976 to 2021 and shall be construed together as one. Therefore the Wildlife Acts 1976 – 2012 should be cited as ‘The Wildlife Acts 1976 to 2021’.

12.5.3 County Kildare Biodiversity Action Plan 2009-2014

The Department advises that objectives related to biodiversity and ecosystem conservation, protection, enhancement and restoration should be separated from policy objectives related to other matters such as amenity and landscape to assist the Council in securing and monitoring the implementation of the policies and objectives of the CDP and in the Department’s monitoring of the National Biodiversity Action Plan 2017 – 2021, which includes the performance indicator ‘*Number of explicit policies and objectives for biodiversity and ecosystem services in County Development Plans and other local plans per Local Authority*’.

Therefore, the Department recommends that the reference to landscape features in Policy BI P1 should be removed. The Department further advises the removal of the phrase ‘wherever possible’ which would undermine the Council’s commitment to ensuring no net loss of biodiversity.

Action BI A1 should refer to the Department as the ‘Department of Housing, Local Government and Heritage’.

12.6.2 Natural Heritage Areas (NHAs) and Nature Reserves

Reference to the National Parks and Wildlife Division should be changed to the National Parks and Wildlife Service.

For clarity and to ensure the protection of proposed Natural Heritage Areas, Policy BI P3 and Objective BI O8 should refer to both ‘proposed Natural Heritage Areas’ and ‘Natural Heritage Areas’.

12.7.1 Protected Habitats and Species

Regarding objective BI O12 ‘*Possibly require a derogation licence, issued by the DHLGH, in the event of a proposed development impacting on a site known to be a breeding or resting site of species listed in the Habitats Regulations or the Wildlife Acts 1976 -2012*’ the Department has the following comments to make:

A number of plant and animal species are legally protected in Ireland. Some of these species are included in a system of Strict Protection pursuant to the requirements of Articles 12, 13 and 16 of the Habitats Directive (92/43/EEC) and are sometimes referred to as ‘Annex IV species’¹¹. The list of Annex IV species which occur in Ireland and its waters is set out in Table 1 below.

¹¹ NPWS (2021) Guidance on the strict protection of certain animal and plant species under the Habitats Directive in Ireland <https://www.npws.ie/licencesandconsents/disturbance/bats-or-otters>



Table 1: Annex IV species which occur in Ireland

Animals	Plants
All bat species	Killarney Fern
Otter	Slender Naiad
Natterjack Toad	Marsh Saxifrage
Kerry Slug	
Dolphins, Whales and Porpoises	
Marine Turtle	

The Minister is empowered, within strict parameters, to grant a licence for derogation from complying with the requirements of Regulations 51 and 52 of the Regulations. The scope of the Minister's powers in this regard is set out in Regulation 54 and requires that a number of tests are applied before a derogation can be granted.

The term 'derogation licence' should not be used to refer to any other licence type other than the above. The Department advises Kildare County Council to review recently published guidance documents on Strictly Protect Annex IV species¹²¹³ and include a specific objective committing to their protection.

The Wildlife Act 1976 to 2021 and the NPWS website¹⁴ should be consulted in relation to other wildlife licencing requirements.

Regarding BI A6 'Undertake surveys and collect data to provide an evidence-base to assist the Council in meeting its obligations under Article 6 of the Habitats Directives (92/43/EEC) as transposed into Irish Law, subject to available resources', the Department recommends the removal of the phrase 'subject to available resources'. This is in accordance with Objective 1 of the National Biodiversity Plan 2017-2021 to 'Mainstream biodiversity into decision making across all sectors'

The Draft Prioritised Action Framework for Ireland 2021-2027¹⁵ identifies the financing necessary to manage Special Areas of Conservation and Special Protection Areas and their associated green infrastructure for the period 2021 -2027 and links them to the relevant EU funding programmes and should also be consulted for funding opportunities. This Department

¹² EEC (October 2021) Guidance document on the strict protection of species of Community interest under the Habitats Directive 92/43/EEC

http://ec.europa.eu/environment/nature/conservation/species/guidance/pdf/guidance_en.pdf

¹³ Mullen, E., Marnell, F. & Nelson, B. (2021) Strict Protection of Animal Species. National Parks and Wildlife Service Guidance, No. 2. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage

NPWS (2021) Guidance on the strict protection of certain animal and plant species under the Habitats Directive in Ireland <https://www.npws.ie/licencesandconsents/disturbance/bats-or-otters>

¹⁴ <https://www.npws.ie/licencesandconsents>

¹⁵ <https://www.npws.ie/news/public-consultation-draft-paf>



also provides funding to Local Authorities to promote actions in National Biodiversity Action Plan (NBAP) 2017-2021¹⁶, with multi-annual funding for projects now available.

Surveys carried out for the preparation of environmental assessments or in the post construction monitoring of developments generate significant volumes of biodiversity data. The Department advises the inclusion of an objective to ensure this data is made available to the National Biodiversity Data Centre (NDBC) on an ongoing basis. This will strengthen the County's biodiversity knowledge base and ultimately aid its protection.

12.8 County Biodiversity Sites

The Department commends Kildare County Council for the inclusion of County Biodiversity Sites within the CDP. As stated earlier, this is particularly important in the case of Kildare's biodiversity, much of which lies outside statutorily protected nature conservation sites.

12.11 Wetlands and Ramsar Sites

The Department commends Kildare County Council for the inclusion of policy and objectives to protect wetlands within the CDP.

12.14.4 Green Infrastructure approach to spatial planning

With regard to objective BI O44 *'Promote a network of paths and cycle tracks to enhance accessibility to the Green Infrastructure network across the County, while ensuring that the design and operation of the routes respect, and where possible, enhance the ecological potential of each site'*, existing areas of green infrastructure mostly coincide with important areas for biodiversity and in the main these areas should be avoided, where possible. An intention of route selection should be to examine alternatives to the use of existing Green Infrastructure. Any new walking and cycling trails within existing areas of Green Infrastructure will require environmental assessments to be carried out (screening for Appropriate Assessment and Ecological Impact Assessment). Transport infrastructure (including walking and cycling trails) provides potential opportunities to act as new Green Infrastructure corridors.

13. Landscape, Recreation & Amenity

13.3 Landscape Character Assessment

Landscape Character Areas have been classified into five sensitivity classes ranging from low sensitivity (Class 1) to unique (Class 5). The majority of the south-west of the county is designated as low landscape sensitivity. Kilberry Bog is located in the heart of this area. It is a cutover bog of approximately 10 km² that has no roads or lighting and is ideally suited to be managed for nature conservation. It is a similar landscape to the western boglands which are classified as high sensitivity (Class 3).

Derryvullagh Island proposed Natural Heritage Area is located on a mineral island at the centre of the bog. To the north of Kilberry bog the Boherbaun River flows. This river is a tributary of the

¹⁶

<https://www.npws.ie/sites/default/files/publications/pdf/National%20Biodiversity%20Action%20Plan%20English.pdf>



Barrow and is included in the designated area for the River Nore and River Barrow Special Area of Conservation. Kilberry Bog is noteworthy for hosting a sizable flock of overwintering whooper swans, an Annex I Birds Directive species as well as several bird of prey species. The Bog has been identified as a core area in Kildare's Green Infrastructure Strategy.

Kilberry Bog is an important biodiversity site in South Kildare. Offering an element of protection to it in designating the area to be at least class 3 would assist in forming an enhanced landscape in South Kildare as it would connect to the existing Class 4 Special Landscape Sensitivity Area along the River Barrow. The Barrow Valley is a flyway for Whoopers swans, and providing a landscape connection to Kilberry Bog, would link the flyway with the birds' foraging and roosting habitats.

Regarding objective LR O12 '*Recognise that boglands are critical natural resources for ecological and environmental reasons, particularly for climate mitigation and adaptation. Development proposals for boglands that reduce biodiversity and increase methane emissions will be strictly limited*', the Department considers that 'greenhouse gas' should be used instead of 'methane' and that the phrase 'strictly limited' should be changed to 'will not be considered'. Projects which result in increases in ammonia emissions to watercourses should also not be considered.

Regarding objective LR O13 '*Recognise that cutaway and cut-over boglands represent degraded landscapes and/or brownfield sites and thus are potentially fit to absorb a variety of development provided that the development proposal does not increase Green House Gas emissions*', the Department recommends the removal of the term 'brownfield sites' as the majority of cutover bog in Kildare does not conform to this description. The ecological importance of cutaway and cutover boglands should also be recognised.

A recent Environmental Protection Agency (EPA) research report¹⁷ found that cutover bogs hold the largest soil organic carbon stock after natural peatlands regardless of peatland type. These are carbon stocks that must be sustainably managed if Ireland wishes to meet its climate change targets. The rewetted and restored cutover bogs monitored in this study are carbon sinks, while their drained counterparts are substantial carbon sources. These results imply the importance of these degraded ecosystems in providing some critical ecosystem services. The report concluded that cutover bogs should be identified for immediate management interventions to prevent further degradation, particularly the ongoing loss of their carbon store.

The Department advises that assessment of development proposals on cutover and cutaway bogs should focus on the carbon balance resulting from rewetting and restoring bogs as an alternative land use scenario in deciding on whether to grant planning permission to developments which would preclude rewetting these sites. Carbon balance calculations should be based on the entire site in recognition that such sites will passively emit carbon into the

¹⁷ EPA (2022) Peatland Properties Influencing Greenhouse Gas Emissions and Removal
https://www.epa.ie/publications/research/climate-change/Research_Report_401.pdf



future without restoration and should not be confined to areas where peat will be disturbed or redistributed due to the development.

The Department welcomes target LR T1 *'It shall be a target of the Council to LR T1 Endeavour to increase the territory of County Kildare designated to nature from 3% to 27% by the end of this Plan period, in response to the Government's commitment to designate 30% of the territory of Ireland for nature by 2030 and in accordance with the EU Biodiversity Strategy 2030. This may be achieved by the development of the proposed Midlands Peatlands National Park (see objectives in Section 13.6)'*

The target being set here is fully achievable and necessary within the context of biodiversity crisis and climate change. The proposal to develop a Peatlands National Park will contribute significantly to this target. It should be noted that only 14% of the County is bog (Source: Chapter 9.9.8). As such other areas of bog, outside of the area proposed for the Peatlands National Park, would need to be designated to move some way towards the 27% target set here.

13.6.4 Greenways, Blueways, Peatways and Trails

With regard to objective LR O38 *'Ensure the biodiversity value of all sites are considered and protected in the development of outdoor recreational facilities including greenways through the preparation of an Ecological Impact Assessment which shall guide the location and design of such facilities'*, the Department advises that Ecological Impact Assessment should assess the impacts of recreational disturbance to ground-nesting birds¹⁸, particularly within cutover and cutaway bogs.

The Department considers that the policy and objectives relating to the long-term monitoring (particularly of disturbance to birds and mammals) and management of Greenways, Blueways, Peatways and Trails, including ecological mitigation and compensation measures along routes and in the wider area, is vital to ensure the success of these routes and environmental sustainability. Certainty of responsibilities for long-term monitoring and management must be established. The Department advises that there is a need to have in place Monitoring and Management Plans for Greenways, Blueways, Peatways and Trails with the protection and enhancement of biodiversity at their core. These plans should provide clear and comprehensive guidance and should include management of wider area. This will ensure inappropriate practices are avoided e.g. use of herbicide and excessive cutting regimes etc.

13.6.5 Public Rights of Way

In relation to objective LR O64 *'Encourage the planting of pollinator friendly trees and plants, where appropriate, to improve pollinator populations within state and publicly owned land, peatlands, river, canal and railway corridors, grass verges along public roads and existing and future greenways, public parks and public open spaces in towns and villages, including part of mixed use and residential developments, in accordance with the All-Ireland Pollinator Plan 2015-2020'*, the Department has the following comments to make:

¹⁸ lapwing, black-headed gull, woodcock, redshank, snipe and ringed plover



The Department is concerned that Objective LR O64 - to encourage the planting of pollinator friendly trees and plants could be harmful to biodiversity and lead to the loss of genetic diversity. The Department would draw the council's attention to the All-Ireland Pollinator Plan Webpage which outlines issues with wild flower seed mixes¹⁹ and includes a number of expert opinions on this issue²⁰. It states that commercial wildflower seed mixes should not be planted outside of a garden setting. As an alternative objective, the Department recommends reduce mowing to allow natural Irish meadows to return with native flowers present in the seed bank. Tree growth should be encouraged through allowing natural regeneration of pockets of scrub. Scrub is the first stage of woodland development and is an important habitat in its own right. Tree planting within semi-natural areas should consist of native species of local provenance only.

14. Urban Design, Placemaking & Regeneration – no comments

15. Development Management Standards

15.16 Built and Natural Heritage

15.16.1 Protected Structures

Oftentimes, bats will roost in basements or attics of old buildings and could potentially be disturbed during works to protected structures. The Department recommends that a section is included which outlines the strict protection afforded to all bat species which are listed on Annex IV of the EU Habitats Directive as well as bat survey and licencing requirements.

16. Monitoring & Implementation – no comments

17. Infrastructural Assessment – no comments

Appropriate Assessment

The Department has reviewed the Stage 2 Appropriate Assessment Natura Impact Report (NIR) prepared by ARUP for Kildare County Council and dated 10th March 2022.

It is noted that recommendations contained within the NIR have not yet been incorporated into the published Plan, as it currently stands in draft form. The NIR states that if the recommendations are not incorporated into the Plan during the next stage of the plan making process, further assessment will be undertaken in relation to same, as necessary. The Department advises that recommendations in the NIR, including proposed amendments to the plan included in Appendix B are incorporated into the CDP, as appropriate.

The Department also recommends the inclusion of an objective in Chapter 1 Introduction and Context to undertake screening for Appropriate Assessment and if required, Appropriate Assessment, in relation to all downstream plans and projects (including all planning applications) as required under Article 6 (3) of the EU Habitats Directive (92/43/EEC).

¹⁹ <https://pollinators.ie/wildflower-seed/>

²⁰ <https://pollinators.ie/wildflower-seed/expert-opinions/>



Furthermore, the Department recommends the inclusion of an objective in Chapter 1 Introduction and Context that all plans and projects, which are supported in whole or in part through objectives, actions, targets or otherwise, have undergone screening for Appropriate Assessment and if required, Appropriate Assessment, as required under Article 6 (3) of the EU Habitats Directive (92/43/EEC) in order to avoid adverse effects on the integrity of European Sites and ensure implementation of mitigation measures where required

Strategic Environmental Assessment

The Department has reviewed the Strategic Environmental Assessment (SEA) Environmental Report prepared by ARUP for Kildare County Council and dated 10th March 2022.

The Department advises that the recommendations to Kildare County Council in Section 8.4 of the report should be implemented.

Article 10 of the SEA Directive requires that monitoring should be carried out in order to identify at an early stage any unforeseen adverse impacts associated with the implementation of the plan or programme. Section 9.2 of the Environmental Report outlined proposed monitoring measures. While the Implementation and Monitoring Framework outlined in Section 16.2.3 of the plan will incorporate a level of monitoring of environment related objectives, the full and comprehensive monitoring and evaluation assessment, required to be undertaken under Article 10 of the SEA Directive, will be undertaken as part of a separate SEA monitoring process, which is outlined in the Environmental Report.

SEA Monitoring during plan implementation should allow for corrective action and intervention if environmental damage is noted and will provide a learning opportunity for practitioners and decision makers for future land use plans. Monitoring can use existing sources of information including data collected by other government departments or agencies but the loss or enhancement of biodiversity due to development can only be adequately monitored and recorded through the planning process.

The Department would welcome a clear and specific monitoring programme to be included with the Environmental Report, outlining how it is proposed to record the impacts of plan implementation on biodiversity, both in terms of biodiversity loss and biodiversity enhancement during the lifetime of the plan. The Department would also encourage making these reports publically available.

Consideration should also be given to monitoring of indirect development impacts on biodiversity such as nitrogen deposition related to bioenergy and agricultural developments, disturbance/visitor pressure impacts of recreation, amenity and tourism development and impacts to water quality.

The Department recommends including a commitment in the CDP to undertake screening for SEA and if required, SEA, in relation to all downstream plans (which can be variously termed



'strategies', 'concept studies' 'programmes' and 'masterplans') as defined by Article 2(A) of the Strategic Environmental Assessment (SEA) Directive (Directive 2001/42/EC).

Furthermore, the Department recommends that the Council ensures that all plans, defined by Article 2(A) of the SEA Directive (Directive 2001/42/EC), which are supported in whole or in part through policy objectives or otherwise have undergone screening for SEA and if required, SEA.

You are requested to send any further communications to this Department's Development Applications Unit (DAU) at manager.dau@housing.gov.ie, where used, or to the following address:

The Manager, Development Applications Unit (DAU), Government Offices, Newtown Road, Wexford, Y35 AP90

Is mise, le meas

Sinéad O' Brien
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