
Kilkenny City & Environs Development Plan 2008-2014 Proposed Variation 1

Manager's Report on
Submissions
4th July 2011

Forward Planning,
Kilkenny Local Authorities



Introduction

This report presents the submissions and observations made following the display period (26th May 2011 to 29th June 2011) of Proposed Variation 1, and sets out the Manager's responses to the issues raised. The report forms part of the statutory procedure for making a Variation, as set out in Section 13 of the Planning and Development Acts, 2000-2010.

A total of fifteen written submissions were received in response to the public display period to the two Variations published for the City & Environs and County Development Plans. Of these, six related to the City & Environs Development Plan. A Table of Submissions is set out below, with the name on the submission and the area of interest. Only those submissions relating to the City & Environs Variation are addressed in this report. The submissions relating to the County Development Plan are addressed in the accompanying report - *Manager's Report on Submissions to Variation 2 to the County Development Plan*.

Structure of the Report

The Report is presented in three parts:

- Part A: Issues raised by the Minister and Manager's Response and Recommendations
- Part B: Issues raised by other bodies or persons and Manager's Response and Recommendations
- Part C: Matters arising from internal review

Part A and B address each of the six written submissions and observations received. It includes the names and addresses of persons or bodies that made the submissions and observations, a summary of the issues raised, and the response and recommendation of the Manager on each submission.

Part C outlines additional issues as raised through the internal review of the Variation.

Any paragraph, policy or objective to be amended in the City & Environs Development Plan is reproduced in full, with deleted text (~~struck through~~) and additional text in *italics*.

Next Steps

The members, having considered the proposed Variation and the Manager's report, may by resolution, make the variation with or without further modification. If the Members decide to materially amend the proposed Variation, a further period of public consultation will be necessary.

Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA)

A Screening for Strategic Environmental Assessment and a Screening report for Appropriate Assessment accompanies Variation No.1 to the City & Environs Development Plan 2008-2014. The screening report for SEA determined that the Variation would have no significant impact on the environment. The screening report for AA determined that there would be no significant effects on any Natura 2000 sites as a result of this Variation.

If the Planning Authority engages in a further round of public consultation for proposed material amendments to Variation No.1 of the City & Environs Development Plan, the planning authority must

screen any proposed material changes to determine if an SEA or AA or both are required of any of the material alterations and what period is necessary for the carrying out of any SEA or AA.

This screening, and if necessary the SEA or AA, must be carried out before proceeding to the public consultation period.

The public display of any material alterations is a minimum of 4 weeks during which submissions with respect to the proposed material alterations will be taken into account before the Variation is made.

Following the public consultation period a further Manager's Report is prepared and the members must consider the proposed variation, the alterations to the proposed variation any environmental reports and the Manager's Report on any submissions received and decide whether to make the variation with or without the proposed alterations.

Table of Submissions

Ref.	Name	Area of Interest (County/City/Both)
P1	Department of Environment, Community and Local Government	Both
P2	Health and Safety Authority	Both
P3	Environmental Protection Agency	Both
P4	Eugene & Seamas McKenna	County (Kells)
P5	Kilmacow Development Group	County (Kilmacow)
P6	Martin Howley	County (Mooncoin)
P7 a	Tesco Ireland	City
P7b	Tesco Ireland	County
P8a	South East Regional Authority	City
P8 b	South East Regional Authority	County
P9	Conn O'Shea	County (Freshford)
P10	Le Chéile Housing	County (Mooncoin)
P11	Deerland Construction	County (Ferrybank)
P12	Irish and European Properties	County (Urlingford)
P13	Archersleas Partnership	City
P14	Denis McBarron	County (Johnstown)
P15	Wexford County Council	County (New Ross)

Part A: Issues raised by the Minister and Manager's Recommendations

Name/Group:	Department of the Environment, Community and Local Government, c/o Marian O'Driscoll, Planning System and Spatial Policy	
Submission P1:	Response:	Manager's Recommendation:
<p>1. The Department wishes to compliment the Planning Authority on the thorough and comprehensive manner in which it has the addressed issues which are required to be covered in Core Strategies.</p> <p>2. It would be helpful if the Core strategy included the criteria which will determine when it may be appropriate to give consideration to the development on Phase 2 lands. In relation to Variation 1 for the City and Environs Plan, for clarity, some indication of when or if, it is intended to review the Loughmacask LAP to ensure that it is consistent with the City and Environs development plan should be given.</p>	<p>1. Noted.</p> <p>2. It is intended that there would be no residential development in Phase 2 lands up to 2014. The Variation states: "Phase 1 land is the only land that in principle will be developed during the life of this plan, and therefore for the purposes of this core strategy, Phase 2 land is considered to be lands which will act as a strategic reserve into the future". Exceptions to this are allowed for the expansion of existing uses and for single houses which will be considered under Section 10.29 of the plan. The lifetime of the plan is from 2008-2014. The review of the next Development Plan commences in 2012, therefore at that stage all of the phasing will be reviewed. Phasing of the land within the Loughmacask Plan corresponds to that proposed under this Variation so that there is no conflict between the LAP and the Core Strategy. There is no requirement for the LAP to be</p>	<p>1. Noted.</p> <p>2. No change recommended.</p>

Part B: Issues raised by the other bodies/persons and Manager's Recommendations

Name/Group:	Health and Safety Authority		
Submission P2:	Response:	Manager's Recommendation	
<p>The HSA expects planning guidelines to contain:</p> <ol style="list-style-type: none"> 1. An indication of planning policy in relation to major accident hazard sites notified under the regulations. 2. The consultation distances supplied by HSA in relation to such sites should be indicated on various maps included in the plan 3. A policy on the siting of new major hazard establishments, including developments in the vicinity of such establishments 4. Mention of the following notified sites: Grassland Fertilisers & Nitrofert 	<ol style="list-style-type: none"> 1. Policy is contained in the CDP, section 8.10 in relation to such sites. The HSA have been asked for their land use planning advice in relation to the notified sites in the county and this land use planning advice has been taken into account in the zoning of land. Policy IE74 will be expanded to include for the development of new notified sites also. 2. These consultation distances are included on the Council's intranet mapping system, this will also be indicated on the zoning maps for the city. 3. As discussed under Point 1, policy IE74 will be amended. 4. This submission is to both the City & Environs and County Variations. All known notified sites are included in the C&EDP. 	<ol style="list-style-type: none"> 1) Amend Policy IE74 as follows: In order to reduce the risk and limit the consequences of major industrial accidents, "It is the policy of the Councils to consult with the Health and Safety Authority when assessing proposals for development <i>of</i>, in or near sites which area identified under the COMAH (Seveso II) Directive." 2) Indicate consultation distances on zoning maps. 3) Amend Policy IE74 as above. 4) No change recommended to City & Environs Plan 	

Name/Group:	Cian O'Mahony, Environmental Protection Agency (EPA)	
Submission P3:	Response:	Manager's Recommendation:
<p>1) The EPA notes the Council's position with regard to SEA of the Proposed Variations. The Agency's previous submission on the Variations should be taken into consideration.</p> <p>2) Any future Amendments to the Plan should be assessed for significant effects on the environment, taking account of the SEA Regulations Schedule 2A criteria, in the same way as the Proposed Variations were assessed.</p> <p>3) Adequate and appropriate infrastructure should be in place, or required to be put in place, to service any development proposed and authorised during the lifetime of the Variation.</p> <p>4) The Council is referred to the requirements of the Habitats Directive and all responsibilities and obligations in accordance with national and EU environmental legislation.</p> <p>5) The Council is reminded of its obligations under the SEA regulations to give notice as appropriate.</p>	<p>1) Noted</p> <p>2) Noted</p> <p>3) The infrastructural requirements to service the development proposed have been addressed in the proposed Variation through the Core Strategy, the zoning maps and accompanying policies.</p> <p>4) Noted. A separate screening to comply with the Habitats Directive, Screening for Appropriate Assessment, has also been carried out.</p> <p>5) Noted.</p>	<p>1-5 No change recommended.</p>

Name/Group:	Tesco Ireland, c/o DPP	
Submission P7a:	Response:	Manager's Recommendation:
<p>The submission makes a number of recommendations for the incorporation of retail policies in the Variation as follows:</p> <ol style="list-style-type: none"> 1. It is important to ensure that the Retail Planning Guidelines are appropriately reflected in the Variation by setting out a retail section in the Variation showing how the Plan is aligned to the Retail Planning Guidelines. In particular, three policies in relation to a healthy and competitive environment, enhancing the vitality and viability of the centre and adopting the sequential approach to the location of retail development are cited. 2. The Core strategy should underline the importance of keeping the baseline information informing the County Retail Strategy up to date, 	<ol style="list-style-type: none"> 1. The current Retail Strategy is based on the Retail Planning Guidelines. The three specific policies cited by the submission are already enshrined in the existing Retail Strategy for the city and county. The fundamental assumptions in relation to the strategic location of retail development within the county are not altered by the Core Strategy. The Introduction to the Variation contains an explanatory paragraph outlining this. It will be appropriate to review the implementation of the Retail Strategy in the light of the Core Strategy. The Plan continues to be aligned with the Retail Planning Guidelines in all respects. The text in relation to the Retail Strategy will be moved from the Introduction to the Variation into Chapter 3: Core Strategy. 2. The Council is aware of the necessity to keep baseline information up to date and is continually reviewing the information internally. All relevant data, including the Census and any economic 	<ol style="list-style-type: none"> 1. In the interests of clarity, move text in relation to the retail strategy into Chapter 3: Core Strategy and amend as follows: The retail strategy for the City and County was adopted in 2008 and is three years old. This Core Strategy does not change the fundamental assumptions in relation to the strategic location of retail development within the County. It does alter the expected population levels within the timeframe of the Development Plan. Since its adoption there has also been a significant change in the economic situation within the country. In particular the economic outlook is pessimistic in the short term and is subject to some uncertainty. Having considered the time frame to the review of the County and City Development Plans (commencing in 2012) it is considered more appropriate at this time to review the implementation of the retail strategy in the light of the new Core Strategy. Subsequently, when the retail strategy is reviewed it will take account of the core strategy. 2. No change recommended.

<p>including population figures which will be issued from the CSO (expected in 2012)</p> <p>3. The Core Strategy should underline the importance of a Retail Strategy which is fit for purpose and which supports investment in Kilkenny city. As such, all policies and the capacity of the 2008 Strategy need to be updated.</p> <p>4. The important economic role of the retail sector as identified by the South Eastern Regional planning Guidelines should be reflected in the core strategy.</p>	<p>reports will be incorporated into any review of the Retail Strategy. Section 5.7.5 of the Plan deals with Monitoring and Review.</p> <p>3. A thorough examination of the 2008 Retail Strategy will be conducted during the next review and this will include for a comprehensive re-evaluation of all baseline data, and all prevailing economic conditions.</p> <p>4. The current Retail Strategy as contained in the Development Plan sets out the objectives of the Strategy under 'Strategic Response' and this acknowledges the importance of the retail sector in the city's economy. This includes "Objective 1: To sustain and improve the retail profile and competitiveness of Kilkenny City and County within the retail economy of the South East Region and beyond." All policies and objectives of the Retail Strategy will be reviewed during the next review.</p>	<p>3. No change recommended.</p> <p>4. No change recommended.</p>
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Name/Group:	South East Regional Authority, Director Tom Byrne		
Submission P8a:	Response:	Manager's Recommendation:	
<p>1. The submission welcomes this variation and acknowledges the efforts made to coordinate the objectives and policies of the development plan so that they are consistent as far as practicable with the South-East Regional Planning Guidelines 2010 – 2022. The Regional Authority considers that the overall population targets proposed in the Core Strategy are consistent with the RPGs.</p> <p>2. In the interest of clarity the infrastructural constraints that exist in the Western Environs and Loughmacask should be identified along with the essential infrastructure elements that are required to facilitate development. It would be beneficial to list the achievements of the Councils in providing the necessary social and physical infrastructure required to promote and facilitate development in these areas.</p> <p>3. There is a discrepancy between two figures used for densities in the</p>	<p>1. Noted.</p> <p>2. The Western Environs LAP was incorporated into the Kilkenny City & Environs Development Plan in 2008. Infrastructural requirements are set out in the Guidance Documents which accompany the plan. The Loughmacask LAP also contains guidance on the infrastructural requirements in relation to phasing. The phasing of the Loughmacask LAP does not conflict with the Core Strategy phasing. There is no requirement to amend the Loughmacask LAP.</p> <p>3. Page 4 of the Variation states that 'At an average density of 20 dwellings to the hectare, this gives a requirement for 32 hectares of land'. On page 14, in the Core Strategy Table, the note states that an average density of 30 units per hectare (uph) has been applied. The first figure is taken from the</p>	<p>1. No change recommended.</p> <p>2. No change recommended.</p> <p>3. Change the density figure to 20 units per hectare in the Core Strategy Table.</p>	

<p>Variation. This should be explained.</p> <p>4. A statement should be included setting out that the review of the Housing Strategy must be consistent with the population targets of the RPGs.</p> <p>5. It should be stated that a Flood Risk Assessment will be carried out as part of the Development Plan Review.</p> <p>6. It may be possible to incorporate findings from the AA or SEA for the Flood Relief Scheme for the River Nore into account.</p> <p>7. The planning authority is responsible for checking that the Variation is fully compliant with the requirements of the RPG in relation to Appropriate Assessment and Strategic Environmental Assessment, all relevant EU</p>	<p>RPGs as this is how the allocation of 48 hectares for Kilkenny is derived. The second figure applies a density of 30 uph as this would be more in line with that recommended by the Department Guidelines on Sustainable Residential Development in Urban Areas. This density is only indicative, however in the interests of clarity, this figure will be reduced to 20 units per hectare.</p> <p>4. As part of this Variation a review of the affordability indicators was conducted. This also incorporated the population projections from the RPGs. Any review of the Housing Strategy will be based on figures contained in the Development Plan, which will be consistent with the RPGs, and this is controlled by legislative requirements.</p> <p>5. A Strategic Flood Risk Assessment was carried out for this Variation, based on all available information. Policy IE57 states "To prepare flood zone maps as part of future Development Plans as information becomes available". This policy will be amended.</p> <p>6. The Flood Relief Scheme for the River Nore was first published in 1986 and a subsequent report was published in 1999. These predated the SEA regulations (2004) and the Circular letter SEA1/08.</p> <p>7. Noted.</p>	<p>4. No change recommended.</p> <p>5. Change policy IE57 as follows: To prepare flood zone maps as part of future <i>the review of the Development or any Local Area Plans</i> as information becomes available.</p> <p>6. No change recommended.</p> <p>7. No change recommended.</p>
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<p>Directives and the Water Framework Directive and associated documents.</p> <p>8. The submission questions if there are specific sections/body text/policies/objectives in the existing Development Plan which should be amended/deleted because they are not aligned with or are in conflict with the proposed Core Strategy</p>	<p>8. An examination of this was carried out during the Variation process, and the Variation identified all the relevant changes in the Plan required as a result of the Core Strategy.</p>	<p>8. No change recommended.</p>
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Name/Group:	Archersleas Partnership, c/o BMA Planning	
Submission P13:	Response:	Manager's Recommendation:
<p>This submission relates to a parcel of land at Archersleas, at the junction of the Callan and Ring Roads. The submission seeks:</p> <ol style="list-style-type: none"> 1. A change in the existing zoning of 4 acres of their land from residential to low-density residential and; 2. The zoning of an additional 9 acres of land from agricultural to low-density residential. This is on the basis that the total capacity of the 13 acres low density residential would be less than the capacity of 4 acres of Residential land. 	<ol style="list-style-type: none"> 1. This land was located in an area identified as 'Planned Expansion' on the Development Plan Strategy map. The Variation proposes to rename this area 'Strategic Reserve' and to remove the objective to prepare an LAP for these lands. There is no change proposed to the zoning on these lands as this will not be affected by the Core Strategy. There are low-density lands located elsewhere in the City, with capacity available. The current permission on this site runs out in October 2011. The developers have stated that the site is more suitable for low density high quality housing. The existing zoning could accommodate a low density scheme. 2. No additional zoning was proposed under Variation 2 anywhere in the City & Environs or County; rather a phasing was introduced to manage existing zoning. Zoning this land for short term gain would result in an inefficient use of strategically placed land for the following reasons: <ul style="list-style-type: none"> • Low-density may not be appropriate at this location given its proximity to the centre; • Other lands closer to the centre have been designated as Phase 2 lands • If all 13 acres of land at this location was zoned for low density, this would result in more than 15% of this Strategic Reserve area being covered by a single house type. 	<ol style="list-style-type: none"> 1. No change recommended. 2. No change recommended.

<p>3. It is also proposed that the Action contained in Section 3.5 Development Plan Strategy "To prepare Local Area Plans for the areas of planned expansion as identified over the lifetime of this plan" be retained, with no timeframe included.</p>	<ul style="list-style-type: none"> • The total amount of zoned land already exceeds the target allocation in the RPG's • Low density demand can be satisfied within lands zoned under Variation in Loughmacask and the Western Environs and other locations within the City & Environs • Excessive zoning will undermine the delivery of the 2 designated neighbourhoods <p>At this stage of the Core Strategy therefore it is not recommended to zone any additional lands.</p> <p>3. This Action is proposed for deletion as basis that there are sufficient lands zoned in Phase 1 in both the Loughmacask and Western Environs LAP to provide for the expansion of the city to 2016, and the Phase 2 lands will cater for the longer term expansion. There is therefore not necessity in the short term to prepare an LAP for any other area in the city. However, text will be inserted to clarify the status of the Strategic Reserve lands.</p>	<p>3. Insert new text in Section 3.4 Development Strategy <i>"Areas of Strategic Reserve are included on the Core Strategy Map. These areas will provide for the long term expansion of the city, following substantial progress being made in the implementation of the Western Environs and Loughmacask areas. Local Area Plans, or appropriate planning framework documents will be prepared for the areas of Strategic Reserve as required in the longer term"</i>.</p>
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PART C: Proposed Variations from Internal Review

Text inserts are in *italics* and all text deletions are in ~~striketrough~~.

Insert new policy in Section 8.3.4: Sustainability and Energy Efficiency in Buildings

IE25 To require that planning applications demonstrate that due consideration has been given to the Technical Guidance Documents of the Building Regulations.

Section 10.4 of City & Environs Development Plan

Table 10.1 Minimum apartment sizes

Apartment type	Minimum floor area
Two bedrooms	65 sqm 73 sqm

Strategic Flood Risk Assessment

Change to Policy IE59 as follows:

For any development, where flood risk may be an issue, a flood risk assessment should be carried out that is appropriate to the scale and nature of the development and the risks arising. ~~The onus is on the applicant to assess whether there is a flood risk issue and how it will be addressed in any proposed development.~~ *The applicant is primarily responsible in the first instance for assessing whether there is a flood risk issue and how it will be addressed in the development they proposed.*