

PROPOSED VARIATION NO. 3 TO THE WICKLOW COUNTY DEVELOPMENT PLAN 2010-2016

Report to the members of Wicklow County Council under Section 13(4) of the Planning and Development Act 2000 (as amended)

March 2013

Forward Planning Section
Wicklow County Council
County Buildings
Wicklow



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PART 1

1.0 Introduction

This Manager's Report is submitted under Section 13(4) of the Planning & Development Act 2000 (as amended); it is part of the formal statutory process of the making of a variation to the County Development Plan.

Section 13 (4) of the Planning Act requires that this report contains the following:

- (i) A list of the persons or bodies that made submissions;
- (ii) A summary of the following:
 - a. Issues raised by the Minister
 - b. Issues raised by other bodies or persons
 - c. In the case of a planning authority within the GDA, issues raised and recommendations of the NTA
 - d. Issues raised and recommendations made by the regional authority

(iii) The response of the Manager to the issues raised and the recommendation of the Manager in relation to the manner in which the issues should be addressed, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

This report is now formally submitted to the Council for consideration. This report will be on the agenda of the County Council meeting on the **15th of April 2013**.

1.1 Draft Consultation Process

The proposed variation was placed on display during the period of 19th December 2012 to 8th February 2013. The aim of the consultation process was to enable the public and interested parties to give their observations on the proposed variation.

As the proposed variation was placed on public display with the draft Greystones – Delgany and Kilcoole Local Area Plan 2013, a number of observers made a combined submission for both proposals. While a total of 171 submissions were made overall, only 7 referred to the proposed variation. Of these 7 only 2 made any comment on the proposed variation itself.

The written submissions are held on file and are available for Council and public inspection.

1.2 Considering the Submissions

Each submission made has been summarised and the response and recommendations of the County Manager are given in Part 3 of this report.

This report is submitted to the Council Members for consideration.

1.3 Next Steps – Variation Timetable

The members of the planning authority are required to consider the proposed variation and this Manager's Report.

If the planning authority, after considering a submission, observation or recommendation from the Minister or Greater Dublin Area Regional Authority, decides not to comply with a recommendation made by either, it shall so inform the Minister or regional authority as soon as practicable by written notice and shall include the reasons for the decision.

It should be noted that no submission was received from either the Minister or the Regional Authority in relation to the proposed variation.

The consideration of the variation and the Manager's Report shall be completed not later than 6 weeks after the submission of the Manager's Report to the members of the planning authority.

Having considered the proposed variation and Manager's Report, the members of the planning authority may, by resolution, either:

- (i) make the variation with or without further modification*,
- (ii) refuse to make the variation,

Where a proposed modification, if made, would constitute a 'material alteration' of the variation, the following shall be carried out:

- the planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both, is required to be carried out as respects a proposed modification. Within 2 weeks of such a determination, the Manager shall specify the period that is considered necessary to facilitate the carrying out of a SEA/AA.
- The planning authority shall publish notice of a proposed material alteration and any determination that requires the carrying out of an SEA/AA. The proposed material alteration and any determination shall be on public display for a period of not less than 4 weeks and submissions invited. All submissions shall be taken into account before the variation of the development plan is made.
- The SEA/AA shall be carried out within the period specified by the Manager.
- A further modification* can be made to the variation

*A further modification to the variation may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site, and shall not be made where it refers to an increase in the area of land zoned for any purpose, or an addition to or a deletion from the record of protected structures.

Formally, making a variation is done by resolution of the Council.

In making a variation to a development plan, the members are restricted to considering the proper planning and sustainable development of the area, the statutory obligations of a local authority and any relevant policies or objectives of the Government or any Minister of the Government

Variation timetable

| Timeframe | Progress of variation process |
|--|--|
| 19 th December 2012 – 8 th February 2013 | Proposed Variation on display - submissions invited |
| 8 th February 2013 – 22 nd March 2012 | Preparation of Manager's Report on submissions received |
| 22 nd March 2013 | Manager's Report issued to Council Members for consideration. |
| 15 th April 2013 (Council meeting) | Variation made, with or without modification, or not made. If modification is material, a second round of consultation is commenced in accordance with Section 13 (6) of the P&D Act |

PART 2 Considering the submissions

For all submissions, the Manager will provide an opinion on the issues raised and a recommendation in relation to the issue. Where the Manager is recommending amendments to the draft plan, these changes will be set out under each issue, with new text shown in red and deleted text in blue strikethrough.

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| Submission from: |
| Cornerpark Estates Ltd Owners of 9.9ha holding at Blacklion |
| In the main this submission is seeking an alteration to the density allowable on zoned lands at Blacklion. However, a request is also made that in the event that requested changes are made, corresponding changes be made to variation No. 3. |
| Manager's response |
| Were the member to resolve to make material amendments to the LAP during the adoption process, a simultaneous and consistent modification would also be made to the variation, if required. |
| Manager's recommendation |
| No change |

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| Submission from: |
| Knockree Properties Ltd Owners of landholding of c.15ha on Sea Road, Kilcoole |
| <ol style="list-style-type: none"> 1. The legal status of the proposed variation: There is an apparent conflict between public advertisement and 'Background' section at end of report on the proposed variation. In light of conflict, process should re-commence. 2. It is not appropriate to run the LAP and variation procedures together. The proposed variation may become defunct and other variations may be required, on completion of the LAP procedure – the outcome of the adopted LAP is assumed – this is not fair or appropriate procedure. Proposed variation No.3 should be abandoned. 3. The sections / maps of the County Development Plan that require adjustment to reflect the proposed Kilcoole 'settlement' boundary should be so amended to include lands that are the subject of the Knockree Properties Ltd submission, whether or not the lands in question retain their proposed 'SLB' zoning (as set out in the draft LAP) or are rezoned for an alternative use. 4. There is an incongruity in designating these 'SLB' whilst including them in the 'Coastal area of Outstanding Natural Beauty'; when it comes to considering lands for residential development, even if it is towards the end of the life of the new LAP 2019, there will be a difficulty in proposing lands in the AONB for residential development. The LAP can contain appropriate development management policies for strategic land banks, pending their zoning for residential development. 5. While the variation explains that rationale behind changes the landscape characterisation map is to reflect the zoning of lands that previously were outside the 'urban area' zone and are now proposed to be zoned within the plan boundary, the variation does not explain why some lands have been taken out of the 'urban area' zone and redesignated AONB / CA. 6. There is an incongruity in designating these 'SLB' whilst including them in the 'Coastal Cell 6' as the objectives of the coastal cell are either not applicable to these lands or could be achieved with the land even were the land zoned as proposed for housing and open space. Therefore there is no advantage to including these lands in the coastal cell. |
| Manager's response |
| <ol style="list-style-type: none"> 1. It is correct that there is one paragraph in the variation document that contains a minor error. This is a clerical error whereby a small piece of text from an earlier version of the document was |

carried forward by mistake into the final published document. Nonetheless, it is not considered that this minor error undermines the validity of the variation process as the public advertisement and all other parts of the documents make it very clear that this variation is being formally proposed and put to the public under Section 13 of the Planning and Development Act.

2. It is necessary to run the two processes concurrently as the elected members of Wicklow County Council must not be put in a position where they cannot adopt a LAP because some provisions of the LAP conflicts with the County Development Plan. Were the members to resolve to make material amendments to the LAP during the adoption process, a simultaneous and consistent modification would also be made to the variation, if required. Therefore it is not correct to say that the publishing of the proposed variation assumes a certain LAP will be adopted – both proposals are open to amendment / modification before adoption.
3. It is considered that the SLB lands should remain outside of the 'settlement' boundary of Kilcoole as they are not lands identified for development during the lifetime of the plan. In that context, it is considered that they should not be designated an 'urban area' in the landscape category maps, or be excluded from the 'coastal cells' (where applicable).
4. It is not considered that there is any inconsistency between the SLB designation and the inclusion of such lands in the AONB as the submitters interpretation of the meaning of SLB is incorrect – the LAP provides that lands in the SLB are identified as '*potentially being part of the envelope of the settlement with regard to proximity and accessibility to infrastructure. However detailed consideration of these areas and appropriateness for zoning will only be considered after the lifetime of this plan. For the sake of clarity, SLB lands form part of the rural area. Planning applications shall be assessed on the basis of the objectives and standards for the rural area, as set out in the Wicklow County Development Plan*'. There is no guarantee even towards the end of the duration of this plan, even if all existing lands are taken up and developed, that permission would be considered for housing on SLB lands.
5. It is a simple rationalisation of the plan to exclude lands from the 'settlement boundary' that are not identified for development during the lifetime of this plan. However, to clarify, the reason for Variation 3.6 should be amended as follows:

Reason for proposed variation: The draft Greystones-Delgany and Kilcoole LAP makes provision for ~~revisions to the 'settlement' boundaries of Greystones-Delgany and Kilcoole. The proposed map change will ensure that all identified development lands are marked as 'urban areas' for the purpose of the landscape categorisation map the zoning of additional lands for development outside of the previous LAP boundaries. Some of these lands are currently identified as being in the 'corridor' and 'area of outstanding natural beauty' landscape zones in the County Development Plan, rather than the 'urban area' landscape zone, as set out on Map 17.09B of the County Development Plan. This map change would reflect the new settlement boundary provisions of the new (draft) LAP.~~

6. It is not considered that there is any inconsistency between the SLB designation and the inclusion of such lands in the Coastal Zone Management Cell 6. While not all of the objectives of Coastal cell 6 are applicable to these lands, or indeed all applicable to any single field / holding in the coastal cell, it is considered appropriate that the lands to the east of the Kilcoole settlement boundary be identified as being part of the larger coastal area that is vulnerable to development and requires protection. Therefore no change is recommended.

Manager's recommendation

Reason for Variation 3.6 be amended as follows:

Reason for proposed variation: The draft Greystones-Delgany and Kilcoole LAP makes provision for revisions to the 'settlement' boundaries of Greystones-Delgany and Kilcoole. The proposed map change will ensure that all identified development lands are marked as 'urban areas' for the purpose of the landscape categorisation map ~~the zoning of additional lands for development outside of the previous LAP boundaries. Some of these lands are currently identified as being in the 'corridor' and 'area of outstanding natural beauty' landscape zones in the County Development Plan, rather than the 'urban area' landscape zone, as set out on Map 17.09B of the County Development Plan. This map change would reflect the new settlement boundary provisions of the new (draft) LAP.~~

PART 3 Recommended modifications to the proposed variation

No modifications are recommended on foot of the submissions set out above.

However, as the proposed variation is necessitated by and linked to the changes being considered to the Greystones - Delgany and Kilcoole LAP, any material amendments that may be made to the LAP may require modifications to this proposed variation. The nature and extent of any such modification cannot be determined until the elected members determine what amendments, if any, they intend to make to the LAP.

During the course of the adoption and / or amendment of the draft LAP, the Council Executive will set out for the members where modifications to the proposed variation are necessitated and in the case of each modification, advise on whether any such modification is material and will require to be placed on public display.

The Council Executive will also be required to determine if any such modification would require Strategic Environmental Assessment / Appropriate Assessment.