



Ref: **FP2019/093**

(Please quote in all related correspondence)

10th January 2020

Administrative Officer
Forward Planning
Wicklow County Council
Station Road
Wicklow Town

Via email: planreview@wicklowcoco.ie

Re: Notification to the Minister for Culture, Heritage and the Gaeltacht under Article 28 (Part 4) or Article 82 (Part 8) of the Planning and Development Regulations, 2001, as amended.

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| Re: Review of the existing plan and the preparation of a new County Development Plan - Issues paper |
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A chara

On behalf of the Department of Culture, Heritage and the Gaeltacht, I refer to correspondence received in relation to the above.

Outlined below are heritage-related observations/recommendations of the Department under the stated heading.

Nature Conservation

Draft comments

The Department refers to the notice given in accordance with Part II Section 11 (1) of the Planning and Development Act 2000 (as amended) that Wicklow County Council intends to review the Wicklow County Development Plan 2016-2022 and prepare a new County Development Plan for its functional area for the period 2021-2027. The process is currently at predraft stage 1. An Issues Paper has been prepared by the council to encourage dialogue on the key topics important to the County, as well as promote and support involvement at an early stage. The Department welcomes the opportunity for early engagement in this process and wishes to provide the following observations.



1. Review of Natural Heritage Policies and Green Infrastructure Strategy

The Department recommends that as part of the process of preparation of a new County Development Plan that the current Plan's policies and objectives, including the Green infrastructure Strategy (Appendix 14 of the current CDP), are reviewed. Such a review should take place with a view to streamlining and strengthening policies and the strategy by ensuring that they are consistent with current National and European plans, policies, objectives and guidance including:

- The Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly 2019¹ Biodiversity Regional Policy Objectives and Green Infrastructure Guiding Principles.
- The National Biodiversity Action Plan 2017 – 2021.
- All-Ireland Pollinator Plan 2015 -2020.
- Ireland's Article 17 reports 2019².
- [Ireland's Summary Report for the period 2008 – 2012 under Article 12 of the Birds Directive](#)³
- The National Peatlands Strategy 2015.
- Conservation objectives for Natura 2000 sites within the plan's zone of influence.
- NPWS Prioritised Action Framework (PAF) for Natura 2000 for the EU Multiannual Financing Period 2014-2020⁴.
- EU's 2013 Green Infrastructure Strategy.
- EU's 2019 Guidance on integrating ecosystems and their services into decision-making.
- Recent planning case law in relation to the Habitats and Birds Directives

The Department welcomes the fact that Wicklow County Council members have recently voted to sign up as partners to the All-Ireland Pollinator Plan 2015 -2020. In accordance with its responsibility as an All-Ireland Pollinator Plan partner, Wicklow County Council should consider the Plan in the forthcoming development plan. There is scope to include habitat for pollinators among objectives for Open Spaces and Recreational Facilities as well as in the Council's policy on herbicide use.

Invasive Alien Species (IAS) are a significant and increasing cost to our economy. Consideration should be given to objectives relating to Invasive Alien Species in the draft plan. This could include an action plan for the highest risk IAS, as identified in the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations (2011).

¹ hereafter referred to as the RSES

² <https://www.npws.ie/publications/article-17-reports/article-17-reports-2019>

³ <https://www.npws.ie/status-and-trends-ireland%E2%80%99s-bird-species-%E2%80%93-article-12-reporting>

⁴ <https://www.npws.ie/sites/default/files/general/PAF-IE-2014.pdf>



When reviewing Plan Policies and the Green Infrastructure Strategy, cross-cutting issues such as climate change, flooding and water quality should also be considered.

2. Integrated assessment

Wicklow County Council is the competent authority in relation to the screening for Appropriate Assessment, and Appropriate Assessment, if required, of the draft Plan. The Appropriate Assessment process should take place in consultation with the teams working on the draft Plan, the Strategic Environmental Assessment (SEA) and the Flood Risk Assessment, as each process can help inform the other to ensure that the objectives and policies in the draft Plan will have no significant effects on the natural heritage. The SEA and draft plan should be guided by results of monitoring of the significant environmental effects of implementation of the previous development plan.

Environmental assessment of the draft Plan should include the impacts of nitrogen deposition on Natura 2000 sites, particularly from road, bioenergy and agriculture plan objectives. Impacts of nitrogen deposition include acidification and eutrophication which leads to biodiversity loss. The Department advises that the AA screening report should include an assessment of the impacts of nitrogen deposition on Natura 2000 sites within the draft Plan's zone of influence. Consideration should also be given to monitoring nitrogen deposition in the SEA. Details of nitrogen deposition mapping and impacts on habitats are included in NPWS, 2019⁵.

3. Green infrastructure network review

The incorporation of Green Infrastructure (GI) in spatial planning is one of the ways in which the National Biodiversity Action Plan seeks to address the main drivers of biodiversity loss in Ireland. The Department recommends that Wicklow's green infrastructure network should be reviewed.

The Department encourages the free dissemination of biodiversity data and will, where possible, facilitate use of its data resource by Wicklow County Council. The Department holds significant habitat and species spatial datasets, including data collected for the most recent Article 17 conservation status reporting cycle (2019). Details of how to access data can be found on the National Parks and Wildlife Service website⁶.

4. Greenways

The issues paper covers greenways in the Tourism and Recreation section of the Issues Paper. In the National Greenway Strategy⁷, a greenway is described as is a

⁵ 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.

⁶ <https://www.npws.ie/maps-and-data/open-data-policy>

⁷ Government of Ireland (2018) Strategy for the Future Development of National and Regional Greenways prepared by the Department of Tourism, Transport and Sport www.dttas.gov.ie



recreational or pedestrian corridor for non-motorised journeys, developed in an integrated manner which enhances both the environment and quality of life of the surrounding area. Greenways are generally welcomed by the Department as a positive contribution to improving the sustainable transport and tourism infrastructure of Ireland. As outlined in the National Greenway Strategy⁸, greenways can include measures to enhance biodiversity and to provide enhancement measures for the All Ireland Pollinator Plan 2015 – 2020. However, the same risks to nature conservation interests and biodiversity are associated with greenways as with any other road development. As advised in the National Greenway Strategy, greenways should be designed to take into account, and avoid where necessary, the sensitivities of natural heritage. Project appraisal and consideration of a number of route options, as outlined in the Common Appraisal Framework for Transport Projects and Programmes⁹, is one way of taking natural heritage into account at an early stage. Greenways should be strategic and projects will be considered for funding under the strategy, if they link to activities and locations, while in themselves not being the most scenic routes. Given the scale of housing development in the east of the county, consideration could be given to including the provision of a greenway, to be constructed in tandem with major Strategic Housing Developments, along the east coast, as a low biodiversity impact and cost effective means of providing a link between settlements and activities.

Section 68(1) of the Roads Act, 1993 (as amended) states that a “cycleway” means a public road or proposed public road reserved for the exclusive use of pedal cyclists or pedal cyclists and pedestrians’. A recent An Bord Pleanála’s inspectors report considered that a greenway and cycleway were the same thing (<http://www.pleanala.ie/casenum/303499.htm>). This means that, as well as Appropriate Assessment, proposed greenways and cycleways should be subject to what could be termed pre-screening for EIA as set out in Article 120(1a) and (1b)) of the Planning and Development Regulations and screening for EIA as set out in Article 120(1), (1A) and (1B) of these Regulations.

As outlined in the Issues Paper, the council have appointed consultants to examine the feasibility of building the East Coast Wicklow to Greystones Greenway, part of which lies within the Murrough Wetlands Special Area of Conservation and the Murrough Special Protection Area, Natura 2000 sites designated under the Habitats Directive. Objectives to facilitate the development of this greenway in the draft plan must be subject to Appropriate Assessment, which should consider the greenway’s impact on Annex 1 qualifying interest habitats.

5. Maintenance of Roads within Wicklow Mountains National Park

Objectives for the maintenance of roads, particularly the R115 (Sally Gap) and R756 (Wicklow Gap) must have due regard to the nature conservation designations in the Wicklow Uplands, namely Wicklow Mountains Special Area of Conservation and Special Protection Area and Wicklow Mountains National Park. Work such as roadside drain maintenance can have a significant negative effect on blanket bog habitat, a priority habitat for protection under the European Union Habitats Directive. Any such planned works in the Wicklow Uplands or close to any other designated Natura 2000

⁹ Department of Transport, Tourism and Sport (2016) Common Appraisal Framework for Transport Projects and Programmes (<https://assets.gov.ie/34326/6bb58b8fe9424bce9595f0a118fc334e.pdf>)



sites in the county should be subject to, at minimum, Appropriate Assessment screening under Article 6 (3) of the Habitats Directive.

Archaeology

1) Statutory Obligations of Local Authorities. Development Plans and the Archaeological Heritage.

The Planning and Development Act, 2000

The Planning and Development Act, 2000 came into effect on the 11th March 2002. Local Authorities are obliged to include the conservation and protection of archaeological sites as an objective within Development Plans.

It is stated in section 10, subsection 2 (c), that:

“a development plan shall include objectives for the conservation and protection of the environment including, in particular, the archaeological and natural heritage and the conservation and protection of European sites and any other sites which may be prescribed for the purposes of this paragraph”

Thus, it is mandatory for Local Authorities to include the conservation and protection of the archaeological heritage as an objective in all Development Plans.

In addition to this, the First Schedule, Part IV, Section 6 of the Act states that objectives which may be indicated in Development Plan include:

“Protecting and preserving (either in situ or by record) places, caves, sites, features and other objects of archaeological, geological, historical, scientific or ecological interest”

The Local Government Act, 2001

Section 69 (1) of the Local Government Act, 2001 requires Local Authorities to have regard to certain matters when exercising its functions under any enactment (e.g. their planning functions including adopting Development Plans and deciding on planning applications), and those matters include:

“policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to its functions”

The Department of the Environment, Heritage and Local Government (now the Department of Culture, Heritage & the Gaeltacht) set out policies in the 1999 publication ‘*Framework and Principles for the Protection of the Archaeological Heritage*’, and part of that policy is that archaeological considerations need to be taken full account of in the development process.



The European Convention on the Protection of the Archaeological Heritage (Valetta, 1992)

This Council of Europe Convention was ratified by Ireland in 1997. It requires that archaeological heritage is taken account of in the development process. This is important, as it reiterates the legal obligations of Irish planning law into a broader European context. This convention also includes the setting and context of archaeological sites as part of the archaeological heritage that requires protection. Ireland is a signatory of this Convention, and as such is legally bound by it.

2) Protecting the Archaeological Heritage as an *Objective* within the Wicklow County Development Plan

Most Development Plans have a preliminary section listing the main objectives and policies of the Development Plan. However, some Development Plans deal with each 'element' separately and only list the objectives and policies regarding each element in the corresponding section within the Development Plan. The Department of Culture, Heritage & the Gaeltacht requests those who include a main objectives list, to include the following objective to cover the policies for protecting the archaeological heritage. (This is expanded upon and detailed in the specific section entitled 'Archaeological Heritage')

A standard basic objective for protection of the archaeological heritage:

It will be an objective of the planning authority to secure the preservation (ie: preservation in-situ or, as a minimum, preservation by record) of all archaeological monuments included in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, and of sites, features and objects of archaeological interest generally.

In securing such preservation the planning authority will have regard to the advice and recommendations of the Department of Culture, Heritage & the Gaeltacht, both in respect of whether or not to grant planning permission and in respect of the conditions to which permission, if granted, should be granted.



3) Specific Section/Chapter entitled 'Archaeological Heritage' as part of the Wicklow County Development Plan

Obviously the more information about the archaeological heritage that can be included in the Development Plan the better. If the Development Plan can be as clear as possible in outlining the planning restraints on archaeological sites, the possibility of developments being held up due to a concern for the archaeological impact of that development is greatly reduced.

In keeping with the Planning and Development Act, 2000, The Department of Culture, Heritage & the Gaeltacht recommends that the Wicklow County Development Plan includes a section/chapter regarding 'Archaeological Heritage'. This should clearly outline the main planning objectives regarding the archaeological heritage of the Development Plan. Within this section/chapter, the Department of Culture, Heritage & the Gaeltacht recommends that the following items be included:

PROPOSED WORDING OF THE SECTION ON ARCHAEOLOGICAL HERITAGE WITHIN THE WICKLOW DEVELOPMENT PLAN:

DEFINITION: The archaeological heritage of County Wicklow includes structures, constructions, groups of buildings, developed sites, all recorded monuments as well as their contexts, and moveable objects, situated both on land and underwater. (*The European Convention for the Protection of Archaeological Heritage, Valetta 1992*)

This means that the archaeological heritage is not confined to the archaeological sites within the Record of Monuments and Places. It includes any archaeological site that may not have been recorded yet, as well as archaeology beneath the ground surface, as well as the context of any site.

The Archaeological Heritage is comprised of:

- Recorded sites and features of historical and archaeological importance included in the Record of Monuments and Places as established under section 12 of the National Monuments (Amendment) Act, 1994,
- Major sites of archaeological importance in State Ownership or Guardianship.
- National Monuments which are the subject of preservation orders.
- All previously unknown archaeology that becomes known (e.g. through ground disturbance, fieldwork, or the discovery of sites underwater).

General Policies

It will be the general policy of the council to apply the following principles to the archaeological heritage:

- *To protect and enhance archaeological monuments and their settings.*
- *To facilitate appropriate guidance in relation to the protection of the archaeological heritage in the area covered in the Development Plan.*



- *To provide guidance to developers and property owners regarding the archaeological implications of a proposed development.*
- *To promote pre-planning consultations in relation to the archaeological heritage with the Planning Authority and with The Department of Culture, Heritage & the Gaeltacht..*
- *To endeavor to ensure the dissemination of the results of archaeological excavation in a timely and appropriate manner.*
- *To promote public awareness of the rich archaeological heritage in the area.*

Specific Objectives

It will be an objective of the Planning Authority to secure the preservation (*in-situ* or by record) of all sites and features of historical and archaeological interest.

It will be an objective of the Planning Authority to secure the preservation (*in situ*) of town walls, embankments, town gates, bastions or ancillary fortifications or portions thereof.

It will be an objective of the Planning Authority to preserve the integrity of existing archaeological monuments in their settings including the integrity of town defences.

It will be the objective of the planning authority to ensure that development in the vicinity of a site of archaeological interest shall not be detrimental to the character of the archaeological site or its setting by reason of its location, scale, bulk or detailing.

When considering development in the vicinity of town defences, the planning authority will aim to achieve a satisfactory buffer area between the development and the town defences in order to ensure the preservation and enhancement of the amenity associated with the presence of town defences within the historic urban pattern.

The planning authority will have regard to the preservation and enhancement of the line of the town defences when considering development proposed in their vicinity. Disturbance, removal and alteration of the line of town defences shall not be considered appropriate within historic settlements identified in the Record of Monuments & Places.

It will be an objective of the Planning Authority to retain the existing street layout, historic building lines and traditional plot widths where these derive from medieval or earlier origins.

In securing such preservation the Planning Authority will have regard to the advice and recommendations of the Department of Culture, Heritage & the Gaeltacht, both in respect of whether or not to grant planning permission and in respect of the conditions to which permission, if granted, should be subject.



When considering development in the vicinity of all upstanding monuments including town defences, the planning authority will require the preparation and submission of an archaeological assessment detailing the potential impact of any development on both upstanding, buried structures and deposits. The report will also include a visual impact assessment to ensure adequate consideration of any potential visual impact the proposed development may have on any upstanding remains.

Designation of remains, sites and areas of archaeological interest as part of the landscape character assessment model within the lifetime of the County Development Plan.

The term 'Archaeological Landscapes' can include areas containing groups of monuments, or image units defined by the location of specific monuments. We would ask that the inclusion of 'archaeological landscapes' within the process of landscape character assessment be included as an objective in the Wicklow County Development Plan.

An objective could be worded as follows: *'It will, within the lifetime of this Plan, be an objective of the Planning Authority to seek to include 'archaeological landscapes' as part of an ongoing landscape character assessment of the plan area.'*

General information which should be placed in an appropriate location within the development plan.

The Record of Monuments and Places (RMP)

The Record of Monument and Places (RMP) is a statutory audit of archaeological monuments provided for in the National Monuments Acts. It consists of a county by county set of marked-up Ordnance Survey maps and a manual listing basic information in relation to each monument or area included in the RMP. Monuments in the RMP are protected under the National Monuments (Amendment) Act 1994. The RMP is revised periodically.

Historic Towns and Town Defences

Historic Towns which have been identified by the Department of Culture, Heritage & the Gaeltacht for general protection are towns which were first identified in the Urban Archaeological Survey of County Wicklow and which have been included in the RMP. For Wicklow these historic settlements include the following: Arklow, Bray, Burgage, Carysfort, Donaghmore, Dunlavin, Ennisboyne, Hollywood, Killeckabawn, Mulsoes Court, Newcastle and Wicklow town.

The guideline boundaries for these towns are illustrated within the RMP and the Historic Environment Viewer. The area within the historic boundaries are known as



Zones of Archaeological Potential, and are areas where intense archaeology is present.

Many of our historic villages, towns and cities comprise a series of streets bounded by town walls, embankments and ditches with town gates marking the entrance to and exit from the urban area.

These fortifications marked out the area of jurisdiction of the town's authority. In some examples additional protective features, like bastions and star-shaped fortifications were built alongside or outside the original town bulwarks.

In a few rare examples, the modern urban centre has not yet fully developed within the area enclosed by the ambitious town walls. However, in most examples, lengths of town wall, gateways and in some cases town banks and ditches lie within or under the modern urban fabric. The survival of these town defences can vary. Some are relatively intact, although pierced through by modern roads and bridges, others lie buried beneath a palimpsest of later building. Protection of the town's heritage includes the retention of existing street layout, historic building lines and traditional plot widths where these derive from medieval or earlier origins.

(Details of monuments within Zones of Archaeological Potential are shown on maps accompanying the Urban Archaeological Survey, which Wicklow County Council has been furnished with.)

The Department of Culture, Heritage & the Gaeltacht would like to draw your attention to the *Bruges Resolution on the Conservation of Smaller Historic Towns, (1975)*, which was adopted by the 4th ICOMOS General Assembly, which outlines the importance of preserving the features of historic towns, while allowing for the necessity of development.

Underwater Archaeology Under the National Monuments Acts 1930-1994 all shipwrecks over one hundred years old, underwater archaeological structures, features and objects are protected. The quantification of the underwater archaeological resource is at a preliminary stage with the National Shipwreck Inventory currently being compiled. This source indicates areas of high archaeological potential within marine environments. The Record of Monuments and Places does not include all underwater archaeological sites. As a result the potential exists for development to impact negatively on our underwater cultural resource. Development Plans should therefore take account of any development and constructional impacts on riverine, lacustrine, intertidal and sub-tidal environments.



Monument or sites included in the Record of Monument and Places (RMP) located within the land holding of development proposals.

It is recommended that the following section be included in an appropriate area of the development plan (possibly in the section relating to open spaces or to residential developments).

Where a proposed development (excluding individual residential home units) includes a monument or site included in the Record Monument and Places within the landholding we recommend that

- A) The developer shall commission an archaeological assessment to establish the extent of archaeological material associated with the monument or site. This assessment shall also define the buffer area or area contiguous with the monument which will preserve the setting and visual amenity of the site.*

- B) The area of the monument and buffer should not be included as part of the open space requirement demanded of a specific developments but should be additional to the required open spaces.*

- C) If a monument or place included in the Record of Monument and Places lies within the open space requirement area for the proposed development, a conservation plan for that monument should be requested as part of the landscape/management plan for that proposed open space.*

- D) Should a monument or site included in the Record of Monument and Places be incorporated into a development, the monument and attendant buffer area should be ceded to Local Authority Ownership once the development and associated landscaping works are complete so that the future protection of the monument can be assured.*

Specific Operational Development Control Section on ‘Archaeological Heritage

The Minister recommends that the following section would be included in Chapter of the Development Plan dealing with “Development Control”

- It is the policy of Planning Authority that proposed developments that may (due to their location, size, or nature) have implications for the archaeological heritage should be subject to archaeological assessment. Such developments include those that are located at or close to archaeological monuments or sites, those that are extensive in terms of area*



(ground disturbance of 1/2 hectare or more) or length (1 kilometre or more) and developments that require an Environmental Impact Statement.

- *The applicant may be formally requested, as part of the planning process to have a report prepared by an archaeologist on the archaeological implications, if any, of the proposed development. The applicant shall commission this assessment report. These archaeological assessment reports shall be submitted to the Planning Authority, and to the Department of Culture, Heritage & the Gaeltacht for their consideration prior to the planning decision.*
- *All planning permissions and other development applications, which are in or might affect sites and features of historical and archaeological interest, shall be referred to the Minister through the Department of Culture, Heritage & the Gaeltacht for comment.*
- *Referrals shall be made in adequate time to allow for the applications to be assessed, for field inspections to be completed and for comments/observations to be returned to the Planning Authority.*
- *The Ministerial recommendations will be fully considered by the Planning Authority in reaching their decision.*
- *Conditions which the Planning Authority may place on developments within the zone of archaeological potential and within close proximity to Recorded Monuments and sites may include the funding by the applicant of archaeological assessment, monitoring, testing or excavation within the area covered by the permission, either prior to the planning decision or prior to any development works proceeding on the site following the grant of planning permission. The preservation of all or part of the archaeological remains in the area covered by the permission may also be considered by the Planning Authority as a condition on such developments. Each planning application for development within the Area of Archaeological Potential and within close proximity to recorded archaeological sites shall be assessed on its own merits.*
- *The Planning Authority will advise developers that they should, during the stages of consideration of a development project that may have a potential impact on the archaeological heritage, consult to identify all relevant issues with a view to discussing any possible difficulties.*



4) Inclusion of Recorded Monuments on Maps

The Minister recommends that the Development Plan include a record of all areas of importance for the archaeological heritage.

With regard to illustrating the archaeological heritage, it would serve for clarity's sake to include all Recorded Monuments on the maps within the Development Plan. This would be an appropriate way to pinpoint protected areas.

The line of town defences, whether upstanding or buried and any related features such as town walls and towers, town gates, embankments, bastions or other fortifications as shown on the Urban Archaeological Survey Maps should be clearly marked on an appropriately-scaled map within the Development Plan.

It is also recommended that Archaeological Landscapes, once designated, would be illustrated on maps illustrating the Landscape Appraisal Zones.

The Minister recommends that (in keeping with our recommendations above) the authors of the Development Plan include the following appendices-

Appendix x

Sites of archaeological importance in County Wicklow in state ownership (o) or guardianship (g).

Appendix y

National monuments which are the subject of preservation orders in County Wicklow

Appendix z

References

- Framework and Principles for the Protection of the Archaeological Heritage, Government of Ireland 1999a.
- The National Monuments Acts, 1930 – 1994.
- The Planning and Development Act, 2000
- The European Convention on the Protection of the Archaeological Heritage (revised) (Valetta, 1992).
- The Record of Monuments and Places for Wicklow.



- The Urban Archaeological Survey of County Wicklow - unpublished survey by J Bradley, A Halpin, H.A. King carried out for the OPW (198x).

Further correspondence:

The Department of Culture, Heritage & the Gaeltacht would welcome further correspondence with regard to the archaeological heritage of Wicklow, and is available for consultation.

You are requested to send further communications to this Department's Development Applications Unit (DAU) via **eReferral**, where used, or to the following address:

The Manager
Development Applications Unit (DAU)
Department of Culture, Heritage and the Gaeltacht
Newtown Road
Wexford
Y35 AP90

Is mise le meas,

Simon Dolan
Development Applications Unit