

Kilkenny County Council
County Hall
John Street
Kilkenny

Bennettsbridge Draft LAP 2009-2015

Section 20(3) (f) Manager's Report to Members

13th July 2009

Introduction

This report presents the submissions and observations made following display period (5th June 2009 to 3rd July 2009) of the Proposed Amendments to the Draft Bennettsbridge LAP 2009, and sets out the Manager's responses to the issues raised. The report forms part of the statutory procedure for preparing a new Local Area Plan (LAP) that is set out in Section 20 of the Planning and Development Act, 2000-2006.

A total of 8 written submissions were received in response to the public display period.

Structure of the Report

The Report is presented in two parts:

- Part A: Submissions, Responses and Manager's Recommendations
- Part B: Further Proposed Amendments (where appropriate)

Part A addresses each of the 8 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 B outlines additional issues as raised through continuing internal review of the Local Area Plan.

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

Progress to Date and Next Steps

To date, the process of preparing the LAP for Bennettsbridge is as follows:

23rd May 2008	Formal notification in Kilkenny People of intention to prepare LAP and preparation of Draft LAP.
28th May 2008	Community group and public workshop held in Bennettsbridge.
June 2008 – Jan 2009	Preparation of Draft LAP.
30th Jan- 13th March 2009	Draft LAP placed on Public Display for a period for 6 weeks and the public and other bodies/organisations made written submissions/ observations.
11th Feb. 2009	Public information evening in Bennettsbridge as part of the consultation process.
5 th May 2009	Manager's report on submissions to the Draft LAP prepared and submitted to the Members for their consideration.
5 th June – 3 rd July 2009	Proposed Amendments to draft LAP placed on public display and the public and other bodies/organisations made written submissions/ observations.

Current Stage

Second Manager’s Report on submissions to the Proposed Amendments prepared and submitted to the Members for their consideration.

Following consideration of this Manager's Report, the local area plan shall be deemed to be made or amended, as appropriate, with the variation or modification proposed by the members or in accordance with the recommendations of the manager as set out in this report, unless the planning authority, by resolution, varies or modifies the proposal, otherwise than as recommended in the Manager's Report (and the variation or modification by the members shall be the original variation or modification proposed by them subject to such amendment of it as they consider appropriate).

Part A: Submissions and Observations made and Manager’s Recommendations

Ref.	Name/Group:	Cian O’Mahony, Scientific Officer, SEA Section - Environmental Research Centre, Office of Environmental Assessment, Environmental Protection Agency, Regional Inspectorate, Inniscarra, County Cork.
PAB1	Submission:	Response:
	<p>This submission makes a number of general comments in relation to Strategic Environmental Assessment and Appropriate Assessment. These are as follows:</p> <ul style="list-style-type: none"> • SEA Determination: the need to determine, with reference to criteria set out in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004) S.I. No. 436 of 2004 whether the proposed amendments would be likely to have significant effects on the environment. • Appropriate Assessment: in compliance with the Habitats Directive, the submission refers to the DOEHLG circular letter – SEA 1/08 & NPWS 1/08 which specifically requires that any draft land use plan (or amendment / variation) must be screened for any potential impact on areas designated as Natura 2000 sites. • Fisheries: in recognition of the River Nore as a fisheries resource and its designation as a Salmonid Water, a specific objective should be included for the protection of fisheries, in particular those listed in Annex II of the Habitats Directive. A policy objective should also be included for all Annex II species occurring within the plan area. • Water Framework Directive: the plan should promote the protection of surface and ground water resources and their associated habitats and species. The objectives and measures of the South Eastern River Basin Management Plan should be incorporated. • Drinking Water/Water supply: The plan should address drinking water supply capacity in the plan area. The plan should also include the relevant recommendations set out in <i>The Provision and Quality of Drinking Water in Ireland – a Report for the Years 2007-2008</i>. Specific objectives for the improvement of water supplies should also be included. 	<p>A detailed SEA Screening Report on the proposed amendments to the Draft was prepared. This Proposed Amended Draft was not found to have any likely significant effects on the environment. (See attached.)</p> <p>An Appropriate Assessment Screening Report was prepared on the Proposed Amendments to the Draft. This found that the amendments were not deemed to have any potential impact on the Natura 2000 sites. (See attached.)</p> <p>Policy NH5 will be amended with the following addition: <i>In seeking to enhance and protect the natural environment, the Council will seek to</i></p> <ul style="list-style-type: none"> • <i>Protect natural heritage sites designated in National and European legislation, specifically the River Barrow and River Nore cSAC</i> • <i>Protect the bio-diversity of the area, particularly to protect those species listed in Annex II of the Habitats Directive.</i> • <i>Protect the River Nore as a fisheries resource and Salmonid Water</i> <p>Section 9.10.3.1 of the County Development Plan sets out the county wide policies in relation to the Water Framework Directive. It is not considered necessary to repeat these in each LAP.</p> <p>Section 4.11.1 deals with water supply for the area. This states that the existing water supply is part of the Bennettsbridge Regional Water Supply Scheme. This section will be amended as follows: Section 4.11.1 Water Supply The existing water supply for Bennettsbridge village is part of the wider Bennettsbridge Regional Water Supply Scheme (RWSS). A preliminary report was carried out <i>in 2008</i> by RPS Consulting Engineers for Kilkenny County Council outlining the present condition and proposed improvements to the Bennettsbridge RWSS.</p> <p><i>The capacity of the current scheme, which was constructed in the 1950’s, is constrained by a</i></p>

	<ul style="list-style-type: none"> • Waste Water Treatment: The plan should promote the implementation of <i>Urban Waste Water Discharges in Ireland for Population Equivalents Greater than 500 Persons – A report for the Years 2004 and 2005</i>. Policies and objectives should be included for the provision and maintenance of adequate wastewater treatment infrastructure and potential impacts on habitats and species. • Obligations with respect to National Plans and Policies and EU Environmental Legislation: the submission refers to the Council’s responsibilities and obligations in relation to national and EU environmental legislation. • SEA Statement: sets out the requirement to prepare and SEA statement outlining the ‘information on the decision’. This statement should summarise: <ul style="list-style-type: none"> ○ How environmental considerations have been integrated into the plan ○ How the environmental report, submission and observations and consultations have been taken into account during the preparation of the Plan; 	<p><i>number of factors, including limited source capacity.</i></p> <p>The report identified the need to upgrade the water supply scheme in light of anticipated population growth and in particular to address the high levels of Unaccounted For Water (UFW). In this regard a policy of the Council to provide for an upgrading of the existing system to cater for anticipated population growth (both in Bennettsbridge and the RWSS area) and to investigate the sourcing of new and water supply sources and associated treatment of water to cater for the existing and anticipated population growth.</p> <p>In general terms, the issue of water conservation has come to prominence in new and existing developments. In this regard, it is a policy of the Council that all future developments must have regard to the need to conserve water.</p> <p><i>Water Supply Policies</i></p> <p>WS1 The Council will endeavour to upgrade the water supply and associated distribution network of Bennettsbridge to cater for the anticipated growth of the village and in line with the upgrades to the Bennettsbridge RWSS.</p> <p>WS2 All future developments must have regard to the need to conserve water.</p> <p>Section 4.11.2 deals with waste water treatment in the plan area. This sets out that the treatment plant is primary treatment only, and is to be upgraded. A discharge licence was applied for this plant in June 2009 and the Council is awaiting a response from the EPA. An Appropriate Assessment of the Discharge License for the existing plant is also being carried out to determine the effects on habitats and species in line with the requirements of Circular letter NPWS L808. In relation to waste water treatment a policy is included in the Plan which states that “Any substantial additional development in Bennettsbridge is viewed premature pending the upgrading of the waste water treatment plant’. The provisions of Circular letter NPWS L808 will apply in relation to any upgrading of the treatment plant. In considering policy WW1, it is recommended that it would be more accurate to change the word ‘substantial’ to ‘<i>significant</i>’.</p> <p>Comments noted.</p> <p>Two detailed Screening Reports have been prepared, firstly on the Draft, and secondly on the proposed amendments to the Draft. The Proposed Amended Draft was not found to have any likely significant effects on the environment. A copy of this decision was sent to the EPA on the 2nd July 2009.</p>
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	<ul style="list-style-type: none"> o The reasons for choosing the Plan adopted in the light of other reasonable alternatives dealt with; and, o The measures decided upon to monitor the significant environmental effects of implementation of the Plan. 	
	Manager's Recommendation:	
	Change sections NH5, 4.11.1 and policy WW1 as outlined above	

Ref.	Name/Group:	Seána McGearty, Coordination Unit, DoCENR
PAB2	Submission:	Response:
	The Department state that they have nothing further to add to comments submitted on 29th October 2008 as these still hold.	Comments in relation to the Water Framework Directive and treatment plant were dealt with in the Draft LAP.
	Manager's Recommendation:	
	No change recommended.	

Ref.	Name/Group:	Patrick O'Sullivan, Spatial Policy Section, Dept of Environment, Heritage and Local Government, Custom House, Dublin 1.
PAB3	Submission:	Response:
	<p>The Department commends the Council on the proposed amendment to the draft LAP which now clearly demonstrates that the population projections and housing demand are consistent with the County Housing Strategy.</p> <p>The draft plan should be amended so as to make appropriate reference to national policy as set down in the "Childcare Facilities Guidelines".</p>	<p>Comments noted.</p> <p>The County Development Plan 2008-2014 Section 4.5.1 sets out the policy in relation to the provision of childcare facilities, in line with the "Childcare Facilities Guidelines". The policies set out in this apply to development in Bennettsbridge and it is not considered necessary to reiterate them in each LAP.</p>
	Manager's Recommendation:	
	No change recommended.	

Ref.	Name/Group:	Eric Wardrop and Joe Sheridan, c/o Peter Thomson Planning Solutions
PAB4	Submission:	Response:
	<p>The submission welcomes the change in the description of the subject lands, to the west of the Nore formerly part of the Glanbia site.</p> <p>Submission made to the Draft LAP (ref. DB4) sought rezoning for mixed use development. It was recommended not to rezone this site to mixed use</p>	<p>Noted.</p> <p>The Proposed Amendments expanded the uses in the Industrial/Employment zone to include for retail use. Having re-examined the uses in this zone and to cater for the presence of existing residences, it is considered appropriate to allow for a small element</p>

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	<p>but the uses were expanded to include retail. The submission welcomes the inclusion of retail uses, but seeks further expansion to accommodate a broader range of uses including residential use as part of a mixed use development.</p>	<p>of residential use.</p> <p>Section 7.2 Industrial/Employment will be changed as follows:</p> <p>Industrial/employment – The zoning objective identifies areas suitable for employment provision, including, inter alia, industrial premises, light industry, warehouses, small and medium sized enterprise, and office employment and retail, appropriate to the scale and character of the village. Particular consideration should be given to the further development, enhancement and facilitation of the crafts industry in the village. All development proposals need to demonstrate adequate provision of necessary physical infrastructure. Residential use would be considered as open for consideration in certain circumstances such as the provision of live/work units or as an ancillary provision in respect of craft workshops or similar. <i>only where no less than two separate planning uses are proposed (i.e. retail/residential or industry/residential etc.) and the residential component shall not comprise greater than 50% of the total gross floorspace. Any residential use will be subject to satisfactory arrangements in relation to the disposal of waste water.</i></p>
<p>Manager’s Recommendation:</p>		
<p>Change Section 7.2 Industrial/Employment to allow for residential use as part of mixed use developments.</p>		

<p>Ref.</p>	<p>Name/Group:</p>	<p>Hillview Residents, c/o Peter Thomson Planning Solutions</p>	
<p>PAB5</p>	<p>Submission:</p>	<p>Response:</p>	
	<p>This submission reiterates and emphasises the points set out in a submission to the draft LAP (ref. DB1) in relation to open space in the Hillview Estate. The submission acknowledges that the proposed amendments did include rezoning an area of open space in the estate to reflect the open space permitted under 01/63. However, there is concern that not all areas of the open space were covered by the open space zoning. This is particularly in the context of recently submitted planning application 08/1068 (withdrawn). The submission requests that all areas be included in the open space zoning.</p>	<p>The area of open space as permitted under 01/63 will be accurately reflected on the zoning map in the interests of clarity.</p>	
<p>Manager’s Recommendation:</p>			
<p>Change the zoning map to accurately reflect the area of open space in Hillview as permitted under 01/63.</p>			

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Ref.	Name/Group:	Thomas and Frances Leacy, The Left Bank, Bennettsbridge
PAB6	Submission:	Response:
	<p>This submission relates to a 1.75 acres site west of the hurling field which was zoned for residential use in the Draft Plan but subsequently changed to Open space in the Proposed Amendments. The submission requests that the site remain as residential use as proposed in the Draft Plan as; 1) any residential development is intended for family members only, 2) a flood risk assessment has been included from OGE Hydrology which states that the site is not at risk from flooding, 3) a report has been included from Flynn Furney Environmental consultants which concludes that residential units here would not affect the cSAC, 4) the site is not in the cSAC, 5) development here could connect to mains sewerage and water supplies, 6) substantial planting has taken place on the site since the current landowners moved here.</p>	<p>Following review of submission ref. DB11 to the Draft which raised concerns about flooding on the subject site, and having regard to the site’s history (refusal 07/280 for dwelling), it was considered appropriate to remove the residential zoning and change it to open space.</p> <p>The report from Flynn Furney is noted, however the Draft LAP and proposed amendments delineated the correct cSAC boundary and noted that the subject site did not form part of the cSAC but adjoined it. The main concern on this site relates to flooding.</p> <p>The report from OGE Hydrology has been referred to the Environment section. The Department of the Environment published <i>Consultation Draft Guidelines on The Planning System and Flood Risk Management</i> which states that a precautionary approach should be applied, where necessary, to reflect uncertainties in the flooding datasets. The response from Environment stated that in the absence of a comprehensive and independent flood risk assessment in line with current guidance the precautionary principle should be applied. The Guidelines also state “It would be premature to make any decision to zone land or grant permission for development where flooding is a significant issue, based on previous history, without a rigorous assessment of flood risk in accordance with these guidelines and application of the Justification Test”.</p>
	Manager’s Recommendation:	
	No change recommended.	

Ref.	Name/Group:	Paul Nolan, Pigeon Park Mews, Danesfort
PAB7	Submission:	Response:
	<p>This submission seeks:</p> <ul style="list-style-type: none"> the rezoning or reservation of the area of land adjacent to the railway line from residential to a zoning which would allow for a railway station. The upgrading of the regional road R700 to national status N700. 	<p>The zoning of the subject site did not form part of the Proposed Amendments and therefore cannot be considered. However a general statement will be inserted in Section 4.6.5 as follows: “<i>The Waterford-Kilkenny railway line runs through Bennettsbridge. A railway station was located in Bennettsbridge in the early 20th century. The Council would support the possibility of locating a train station in Bennettsbridge in the future.</i>”</p> <p>The upgrading of the R700 to national status is an objective of the County Development Plan 2008-2014. This is a more strategic objective than can be dealt with at LAP level.</p>
	Manager’s Recommendation:	
	Insert statement in Section 4.6.5 regarding a railway station in Bennettsbridge.	

Ref.	Name/Group:	Joint Bennettsbridge Community Groups
PAB8	Submission:	Response:
	<p>This submission welcomes many of the proposed amendments but states that prioritisation and direction are required.</p> <p>a) Pedestrian Access The submission states that the option of traffic lights and restricting traffic to one-way on the bridge is unsuitable as traffic lights would be out of character with the village and create traffic hold ups. This project needs prioritisation and a plan should be put in place to provide financing for this for the future.</p> <p>b) Public space Areas of public ownership should be identified. Bennettsbridge suffers from a lack of public space.</p> <p>c) Parking Parking is inadequate in the village. Policy to provide a traffic management plan will not solve this issue. Additional spaces are a necessity.</p> <p>d) Traffic calming Calming measures should be implemented on the three approach roads: Gowran, Thomastown and Kilkenny.</p> <p>e) Lighting on the bridge Funding was set aside for lighting on the bridge four years ago, this was not completed.</p> <p>f) Proposed perimeter road This road will run through a residential area and would be better placed on the perimeter of the final development phase.</p> <p>g) Provision of amenities Playground should be implemented in the short-term. GAA would benefit from provision of an extra pitch. Scouts need a clubhouse/hall attached to land for camping. Soccer club should also benefit from community gain. Facilities outside the developed are</p>	<p>a) This is referring to the amended policy in section 5.4 in relation to improving pedestrian access over the bridge. This states “Policy: To investigate all options for improving pedestrian facilities (including lighting) over the River Nore”. (Note: The ‘lighting’ referred to here refers to street lighting, not traffic lights.) As a short-term measure the regulation of traffic is still seen as the most realistic and cost-effective solution. A new structure or a modification of the existing bridge is not ruled out however all proposals will depend on financing and detailed design proposals. An examination of this would be included in the Traffic Management Plan. Action TTA2 of the Proposed Amendments should be amended to state “To prepare a traffic management plan for the village, including the school, church, graveyard, community centre <i>and bridge</i>’.</p> <p>b) It would not be appropriate for an LAP to contain such a map of landownerships.</p> <p>c) Having conducted some survey work, it appears that the parking problems mainly occur at peak times. In total, around the area between the church, community centre and school there are 46 spaces. A traffic management plan for the school would greatly help in this regard; see point (a) above.</p> <p>d) Traffic calming could form part of any traffic management plan for the village.</p> <p>e) Funding has been set aside by both the Callan and Thomastown Electoral Areas for public lighting on the bridge. This is being progressed by both Area offices in conjunction with the ESB.</p> <p>f) This road is intended as a connecting street, improving permeability and access to the village. It is not intended as a bypass/ratrun, and its design will be such to deter unnecessary through traffic. This can be stipulated in Chapter 6 in Section 6.2 which will state “<i>Connector street from Gowran road to Ballyreddin road, which will be designed as a pedestrian friendly environment, with integrated traffic calming design</i>”.</p> <p>g) Policy OS5 relates to the provision of a playground and states that a new playground will be provided subject to resources and finances. Chapter 6 sets out the mandatory objectives that must be provided as part of development in the framework area. The amendments stated that the</p>

	<p>less likely to be vandalised. One facility should be provided outside the development boundary to satisfy all three needs.</p> <p>h) Woodlawn The community request that this site not be developed, or at least not developed until alternative facilities have been provided.</p> <p>i) Multi-functional facility In the current economic climate this is unlikely to be developed. The best option would be to develop the existing hall in the village.</p> <p>j) Factory site The community request that this site be assigned to the community for community use. Ownership could rest with the Council while being leased.</p>	<p>multi-purpose facility should be provided in the subject lands. Having regard to this submission and point i) below, it is considered appropriate to adopt a more flexible approach to the provision of these facilities. It is recommended to amend the description in Section 6.2 from “Delivery of Multi-purpose facility and sports fields” to <i>“Delivery of Community/Sports Facilities”</i> and alter all references accordingly.</p> <p>It is proposed to amend the description under 6.2 as follows: <i>“Improved facilities A new multi-purpose facility which facilitates can cater for a range of uses such as community, recreation and sports training have to be provided on the subject lands and will need to be built into the overall roll-out of development in the framework area. Notwithstanding the above, it is considered appropriate that the delivery of these multi-purpose facility facilities shall be negotiated with the planning authority at application stage to determine the optimal location and design in consultation and agreement with the local community.”</i></p> <p>The specification of this <i>these facility facilities</i> should, as a minimum, include an indoor sports hall which can also be used as a multi-purpose hall for non-sport related events and shall include changing room facilities, ancillary general utility room(s) and a reception area. The provision of a full-sized soccer pitch is also a requirement for the future development of the area.”</p> <p>As a result of this change, policy CF5 (Section 4.7) will be deleted. To secure the continued use of the green area beside the school, a new specific objective will be added to the map on the lands beside the school stating <i>“To protect the community’s continued use of this area as a recreational resource”</i></p> <p>h) This request is noted. This land is owned by the Council’s housing department. However any development on this site would be subject to the Part VIII process.</p> <p>i) It is agreed that the existing community hall should be redeveloped as a priority. This could be achieved as part of the satisfying of the requirements set out in Section 6.2 in relation to development in the framework area lands. Policy CF2 (Section 4.7) will be amended to read <i>“To encourage and facilitate the provision and expansion and upgrading of community facilities in the village and in particular to regard favourably additional commercial development in the village centre”.</i></p> <p>j) At present the Council own this site. The Council would encourage the community to discuss proposals for the use of this site with the Community and Enterprise section.</p>
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	<p>k) Recreational walks Any routes should be safe, clean and well-lit. The route along the stream to the south is unachievable. Access to the factory site should be improved, both via the Ring and through the school field.</p>	<p>The LAP will be amended to include an SO stating <i>"To facilitate the community in advancing proposals for the use of the factory site to the rear of the Ring"</i>.</p> <p>k) The route to the south is a long-term objective. It is not intended to pursue this in the short-term, but rather to reserve the land for the future. A submission was made to the Draft Plan seeking the zoning of this land for residential use, therefore the inclusion of this long-term objective is considered necessary. The nature of access to the factory site will depend on an appropriate use being proposed. The nature of any access will be subject to the development management process.</p>
	Manager's Recommendation:	
	<p>a) Amend Action TTA2 b) No change recommended c) Amend Action TTA2 as in (a) d) Amend Action TTA2 as in (a) e) No change recommended f) Amend text in section 6.2 in relation to connector street g) Amend text in section 6.2 in relation to multi-purpose facility, delete CF5, insert SO on lands beside school h) No change recommended i) Amend policy CF2 j) Insert new SO in relation to the factory site k) No change recommended</p>	

PART B: Further Proposed Amendments to the Written Statement and Zoning Map

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

A policy will be added to Section 4.9 in relation to Archaeology
*BH3 a) To protect and enhance archaeological sites and monuments (including their settings),
and extending to any additions or alterations that may arise during the lifetime of this plan;
(b) To require an appropriate archaeological assessment to be carried out in respect of any
proposed development likely to have an impact on a Recorded Monument or their settings*

To avoid confusion between policies for new housing and policies for natural heritage, policies under 7.3.2 in relation to new housing, will be renumbered H1, from NH1.

Addendum to Manager's Report following the Council meeting on 20th July 2009

At the Council meeting on the 20th July 2009, it was agreed that a statement be inserted into the Manager's Report in relation to Submission PAB6, which stated if it was the case that a more detailed flood risk assessment was submitted which proved that the site is not at risk from flooding, the zoning could be subject to review.