

# SCREENING REPORT

## ARTICLE 6(3) & (4) OF THE HABITATS DIRECTIVE 92/43/EEC APPROPRIATE ASSESSMENT OF LAND USE PLANS

### PREPARATION OF KILMACOW LOCAL AREA PLAN 2008-2014

#### KILKENNY COUNTY COUNCIL

#### 1.0 INTRODUCTION

Kilkenny County Council intends to make a Local Area Plan for Kilmacow under the Planning and Development Acts 2000-2006. The purpose of this screening report is to consider whether the proposed LAP is likely to impact on any designated Natura 2000 sites (normally called Special Areas of Conservation or Special Protection Areas) and to determine whether a full Appropriate Assessment is required.

Please note that a separate Strategic Environmental Assessment (SEA) Screening Report was prepared in May 2008 and the relevant environmental authorities (the EPA and DoEHLG in this case) were consulted in considering whether the LAP required SEA. This current Screening Report refers only to potential impacts that may occur to any Natura 2000 sites as a result of the implementation of the new LAP, in accordance with the 1992 Habitats Directive.

#### 2.0 DOEHLG CIRCULAR LETTER SEA 1/08 & NPWS 1/08

DoEHLG Circular Letter SEA 1/08 & NPWS 1/08 was issued to all local authorities on February 2008. The letter refers to the recent ruling against Ireland in Case 418/04 EC Commission v Ireland and relates to Ireland's transposition and implementation of the Birds Directive 79/409/EEC, as well as its implementation of relevant articles of the 1992 Habitats Directive. The ruling, amongst other things, clarifies that Ireland has not correctly transposed Article 6 (3) and (4) of the 1992 Habitats Directive by not providing explicitly for appropriate assessment of land use plans, as opposed to projects (paras 222 to 234 of the ruling). The implications of the ruling are that any draft land use plan or amendment/variation to it, proposed under the Planning and Development Act 2000 (as amended), must be screened for any potential impact on areas designated as Natura 2000 sites. The results of the preliminary screening will then determine whether or not a full Appropriate Assessment must be carried out.

The DoEHLG Circular Letter SEA 1/08 & NPWS 1/08 requires that the screening should be based on any ecological information available to the authority and an adequate description of the plan and its likely environmental impacts. It also specifies that the results of the screening be recorded and made available to the public and the appropriate assessment, if required, published concurrently/jointly with the SEA of the plan.

### **3.0 FURTHER INFORMATION & MAPS**

Enclosed with this Screening Report are the following maps and information:-

- A Location Map for Kilmacow (Map A)
- A Map of Kilmacow showing the boundary of the proposed LAP area (Map B).
- A copy of the Zoning Map from Kilmacow Village Plan 2002-2008 (Map C).
- A map showing Kilmacow in relation to the nearest designated sites (pNHAs, SACs and SPAs) (Map D).
- Kilmacow Village Plan 2002-2008, which is contained in Volume II of Kilkenny County Development Plan 2002-2008 can be viewed at the following web address:- <http://www.kilkennycoco.ie/cdp/index.html>

### **4.0 DESCRIPTION OF LANDS**

Kilmacow with a population of approximately 764 persons is situated in south Kilkenny, close to the border with County Waterford. It is positioned along the River Blackwater and is strategically placed approximately 6.5km north-west of Waterford City, almost equidistant from two major national primary routes - the N24 Waterford to Clonmel Route and the N9, which links the two cities of Kilkenny and Waterford.

The settlement is located within the area considered in the Waterford Planning Land Use and Transportation Study (PLUTS) and is subject to the policies, objectives and controls that apply under the Kilkenny County Development Plan 2008-2014.

Kilmacow is ranked fifth on the six-tiered County Settlement Hierarchy in the '*smaller towns and villages*' category as set out in the Kilkenny County Development Plan 2008-2014. The village functions primarily as a local service centre to both local residents and to the wider hinterland area.

One of the most instantly distinctive features of Kilmacow is that it has two village centres; one known as Upper Kilmacow and the other as Lower Kilmacow. Each is separated from the other by a large green wedge of primarily rural land that stretches for approximately 1km. This is a unique feature of Kilmacow's settlement structure and forms a part of the settlements unique identity.

### **5.0 SCREENING GUIDANCE**

The document prepared for the Environment DG of European Commission and entitled '*Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6 (3) and (4) of the Habitats Directive 92/43/EEC*' (School of Planning - Oxford Brookes University, 2001), sets out the methodology to be followed in the screening report.

Section 3.1 of the document advises on the general screening process while Annex 2, Figure 1 of the document provides a screening matrix with assessment criteria that should be used in the screening report. In accordance with this guidance, Annex 2, Figure 1 has been used to produce this screening statement, as is set out in the Screening Assessment below.

## 6.0 SCREENING ASSESSMENT

### 6.1 Brief Description of the Plan

The Kilmacow Local Area Plan will replace the current Kilmacow Village Plan which was contained in Volume II of Kilkenny County Development Plan 2002-2008, in line with the new Kilkenny County Development Plan 2008-2014, which was adopted in June 2008. The Local Area Plan will remain in place for a period of 6 years from the date of its adoption.

The Plan will establish a land use framework for the sustainable development of the area, including the location, nature, size and operating conditions. The Local Area Plan will form a statutory document, conforming to the policies and objectives set out in the 2008-2014 County Development Plan and other relevant government guidelines and documents.

The Plan will identify the existing character of the area, set out a common vision or strategy for Kilmacow that is generally supported by the local community and that provides a positive framework for guiding private development and public investment in the village. It will provide a means (via policies and objectives) to influence future development to create a sustainable environment. The overall aim will be to accommodate local development needs in an orderly and sustainable manner, whilst protecting the historic character of the village.

The Plan area comprises approximately 305 hectares of land (195 hectares of which are zoned rural) - and a current population of around 764 persons.

### 6.2 Brief Description of the Natura 2000 Site

Table 1 below shows all designated sites within a 5km radius of Kilmacow and shows their approximate distance from the LAP boundary. The location of each of the designated sites in relation to Kilmacow is illustrated on Map D of this report.

**Table 1:** Designated Sites within a 5km Radius of Kilmacow

Designation Type	Site Code	Site Name	Distance from Kilmacow (Km)
cSAC	002173	Lower River Suir	3km
pNHA	00833	Grannyferry	3.3km
pNHA	00406	Lough Cullen	4.3km

As can be seen, there are no Natura 2000 sites (SACs or SPAs) either in Kilmacow, adjoining it or in close proximity to it. The nearest Natura 2000 site to Kilmacow is the Lower River Suir cSAC (site code 02173) which is located some 3km to the south of

the lower village. This cSAC runs along the length of the River Suir and its riverbanks as it runs through County Waterford and County Tipperary. There are no other Natura 2000 sites within a 5km radius of Kilmacow.

### **Lower River Suir cSAC – Description**

This site consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in Co. Waterford and many tributaries including the Clodiagh in Co. Waterford, the Lingaun, Anner, Nier, Tar, Aherlow, Multeen and Clodiagh in Co. Tipperary. The Suir and its tributaries flow through the counties of Tipperary, Kilkenny and Waterford.

The site is a candidate SAC selected for the presence of the priority habitats on Annex I of the E.U. Habitats Directive - alluvial wet woodlands and Yew Wood. The site is also selected as a candidate SAC for floating river vegetation, Atlantic salt meadows, Mediterranean salt meadows, old oak woodlands and eutrophic tall herbs, all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive - Sea Lamprey, River Lamprey, Brook Lamprey, Freshwater Pearl Mussel, Crayfish, Twaite Shad, Atlantic Salmon and Otter.

The site is of particular conservation interest for the presence of a number of Annex II animal species, including Freshwater Pearl Mussel (*Margaritifera margaritifera* and *M. m. durrovensis*), Freshwater Crayfish (*Austropotamobius pallipes*), Salmon (*Salmo salar*), Twaite Shad (*Alosa fallax fallax*), three species of Lampreys - Sea Lamprey (*Petromyzon marinus*), Brook Lamprey (*Lampetra planeri*) and River Lamprey (*Lampetra fluviatilis*) and Otter (*Lutra lutra*). This is one of only three known spawning grounds in the country for Twaite Shad.

The site also supports populations of several other animal species. Those which are listed in the Irish Red Data Book include Daubenton's Bat (*Myotis daubentonii*), Natterer's Bat (*M. nattereri*), Pipistrelle (*Pipistrellus pipistrellus*), Pine Marten (*Martes martes*), Badger (*Meles meles*), the Irish Hare (*Lepus timidus hibernicus*), Smelt (*Osmerus eperlanus*) and the Frog (*Rana temporaria*). Breeding stocks of Carp are found in Kilsheelan Lake. This is one of only two lakes in the country which is known to have supported breeding Carp. Carp require unusually high summer water temperatures to breed in Ireland and the site may therefore support interesting invertebrate populations.

The Lower River Suir contains excellent examples of a number of Annex I habitats, including the priority habitat Alluvial Forest. The site also supports populations of several Annex II animal species and a number of Red Data Book animal species. The presence of two legally protected plants (Flora (Protection) Order, 1999) and the ornithological importance of the river add further to the ecological interest of this site.

**6.3 Describe the individual elements of the plan (either alone or in combination with other plans or projects) likely to give rise to impacts on the SAC**

It is not expected that the proposed Local Area Plan will cause any significant negative impacts on the Lower River Suir cSAC (site code 02173) as it is located some 3km away from the LAP area.

**6.4 Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the SAC.**

It is noted that the Blackwater River flows through Kilmacow and eventually into the Lower River Suir cSAC, located approximately 3km to the south of the village, which means that there is potential for any developments in close proximity to that river to impact on the cSAC downstream. This would be an indirect impact of the plan on the cSAC. However, the Draft LAP will contain clear policy to ensure the protection and enhancement of the River Blackwater corridor and the natural habitats contained therein. Proposals for developments which encroach on the river corridor will be required to be accompanied by an assessment of the potential impact on natural habitats in the wider riparian environment. This in turn will influence the decision of the planning authority regarding such development. A setback of 5-10m from the edge of the watercourse will be required in the case of all development. In addition to this, development will be restricted within areas which are sensitive to the effects of flooding, in accordance with the recently published *'Draft Planning System and Flood Risk Management Guidelines for Public Consultation'* (Sept. 2008).

In this regard, there is limited chance of the LAP inflicting a significant negative impact on the River Blackwater, which in turn means there is a remote chance of the LAP causing an indirect negative impact to the Lower River Suir cSAC.

**6.5 Describe any likely changes to the site arising as a result of the potential impact.**

As the LAP is not expected to cause any potential impact on the Lower River Suir, it will cause no changes to the Natura 2000 site. More specifically, there will be no reduction in habitat area; no disturbance of key species, habitat or species fragmentation; no reduction in species density; no changes in key indicators of conservation value and no climate change brought about to the Lower River Suir cSAC as a result of the Kilmacow Local Area Plan.

**6.6 Describe from the above those elements of the plan, or combination of elements, where the above impacts are likely to be significant or where the scale of magnitude of impacts is not known.**

As detailed above, there is potential for an indirect impact on a Natura 2000 site as the Blackwater River flows through Kilmacow and into the Lower River Suir SAC, which means that there is potential for any developments in close proximity to that river to impact on the cSAC downstream. It is considered that the potential of this

impact occurring is very low given the distance of the cSAC from Kilmacow and also the preventative objectives and policies that will be included in the Local Area Plan. It is therefore considered that there will be no significant impact on a Natura 2000 site or its conservation objectives as a result of the implementation of the Kilmacow LAP.

## **7.0 CONSULTATION**

The specified environmental authority that should be consulted in relation to Article 6 (3) and (4) of the Habitats Directive 92/43/EEC is;

- The National Parks and Wildlife Service (NPWS) of the Department of the Environment, Heritage and Local Government (DoEHLG)

The National Parks and Wildlife Service (NPWS) of the Department have a formal consultation role (through the Development Applications Unit (DAU) as part of the screening and assessment process. In this regard, discussions were undertaken with Mr. Jimmy Conroy of the NPWS who is a Wildlife Ranger for the Kilkenny County Council area. His advice and recommendations have been taken on board in considering whether full Appropriate Assessment is necessary or not in the case of Kilmacow Local Area Plan.

Mr. Conroy felt that full Appropriate Assessment did not need to be carried out for Kilmacow LAP given the distance of the Lower River Suir cSAC from the LAP area. He felt that no significant impacts were likely to occur to the cSAC or its conservation objectives as a result of the implementation of the Local Area Plan.

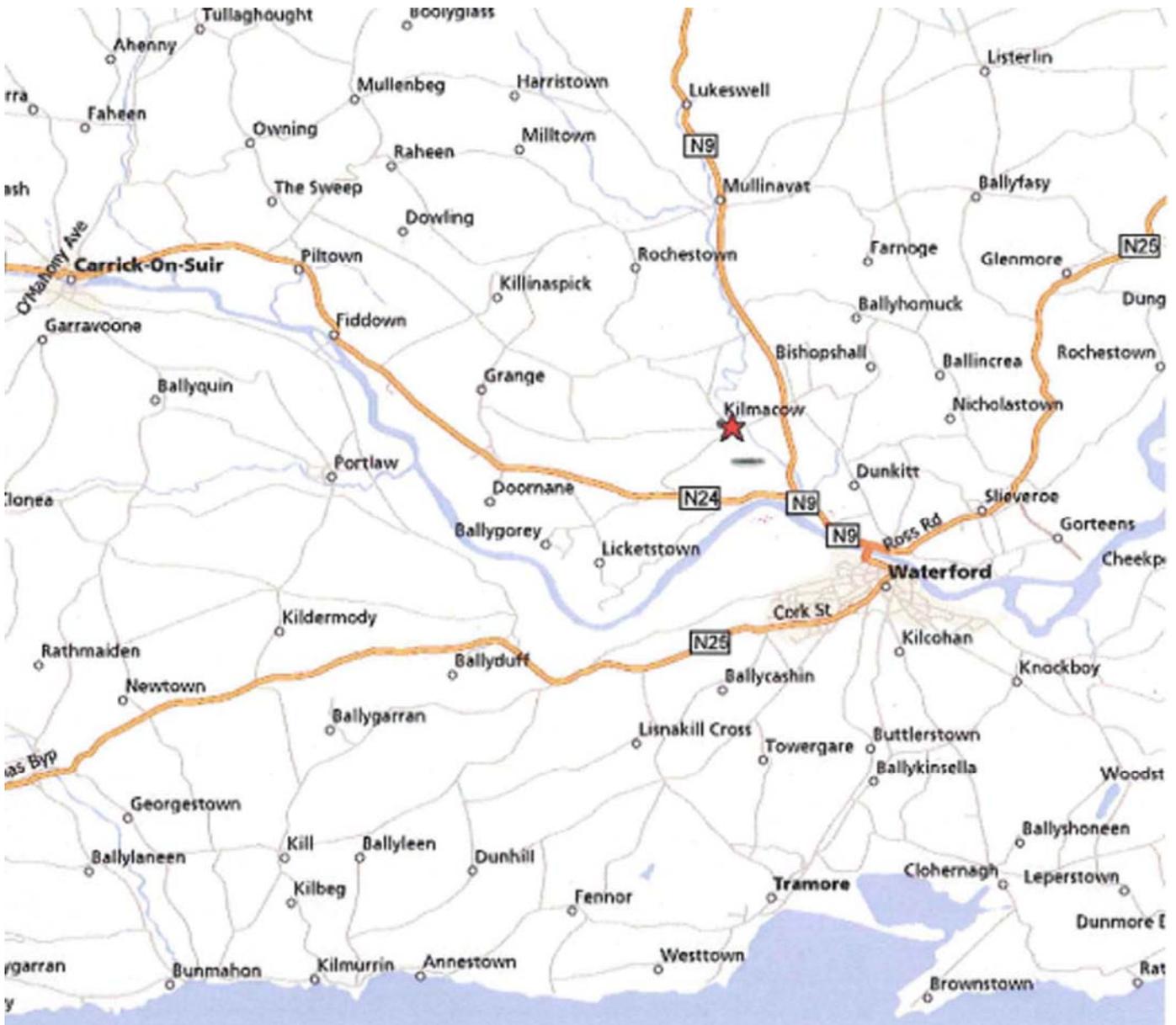
Please note that the EPA and DoEHLG were consulted previously in considering whether the LAP required SEA.

## **8.0 CONCLUSION AND RECOMMENDATION**

It is considered that the proposed LAP for Kilmacow will not have negative ecological impacts on a Natura 2000 site, nor will it impact on the conservation objectives of a Natura 2000 site. It is therefore considered, in consultation of the NPWS personnel, not to proceed with a full Appropriate Assessment, as it is not considered necessary in this case.

# MAPS

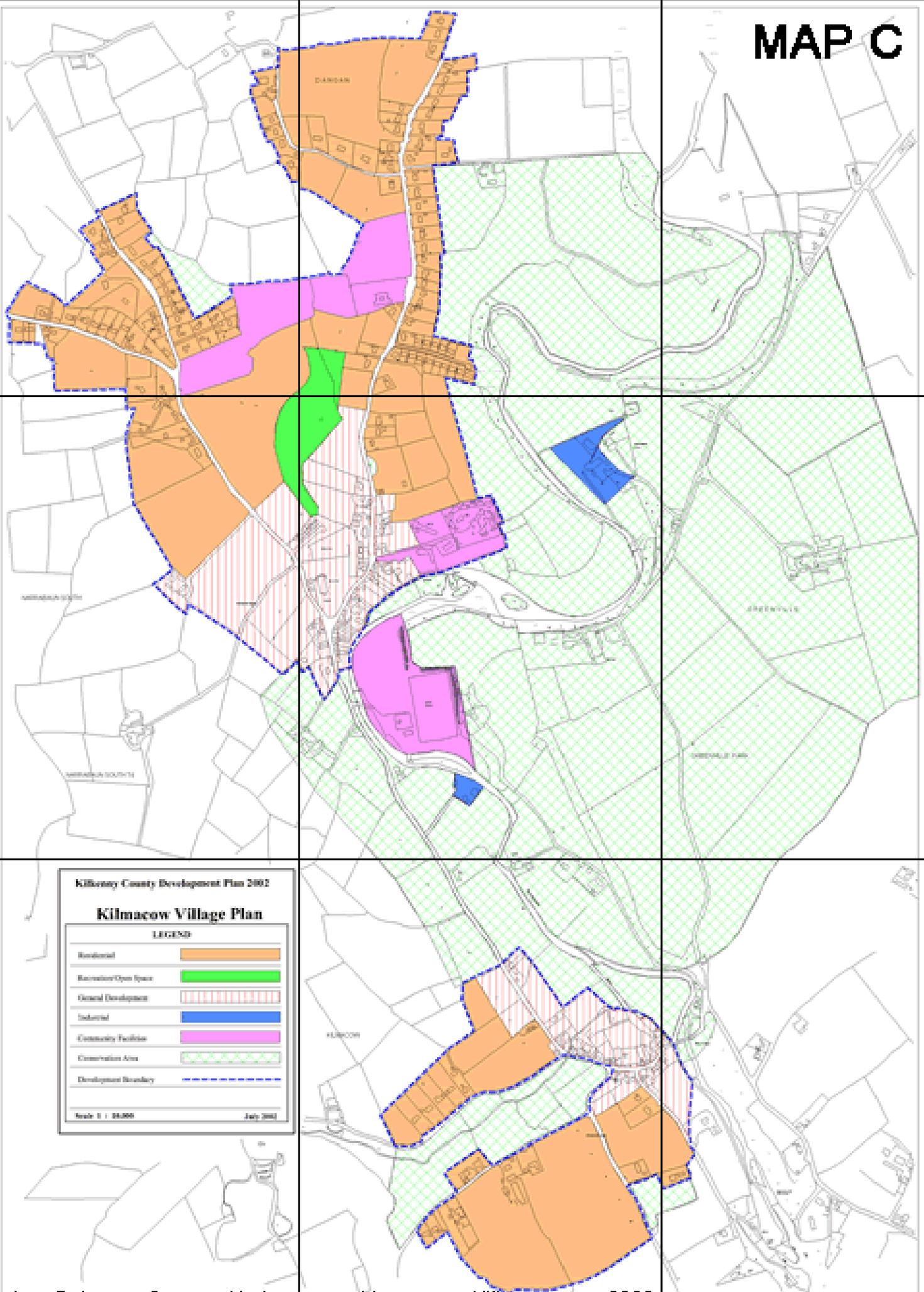
# MAP A



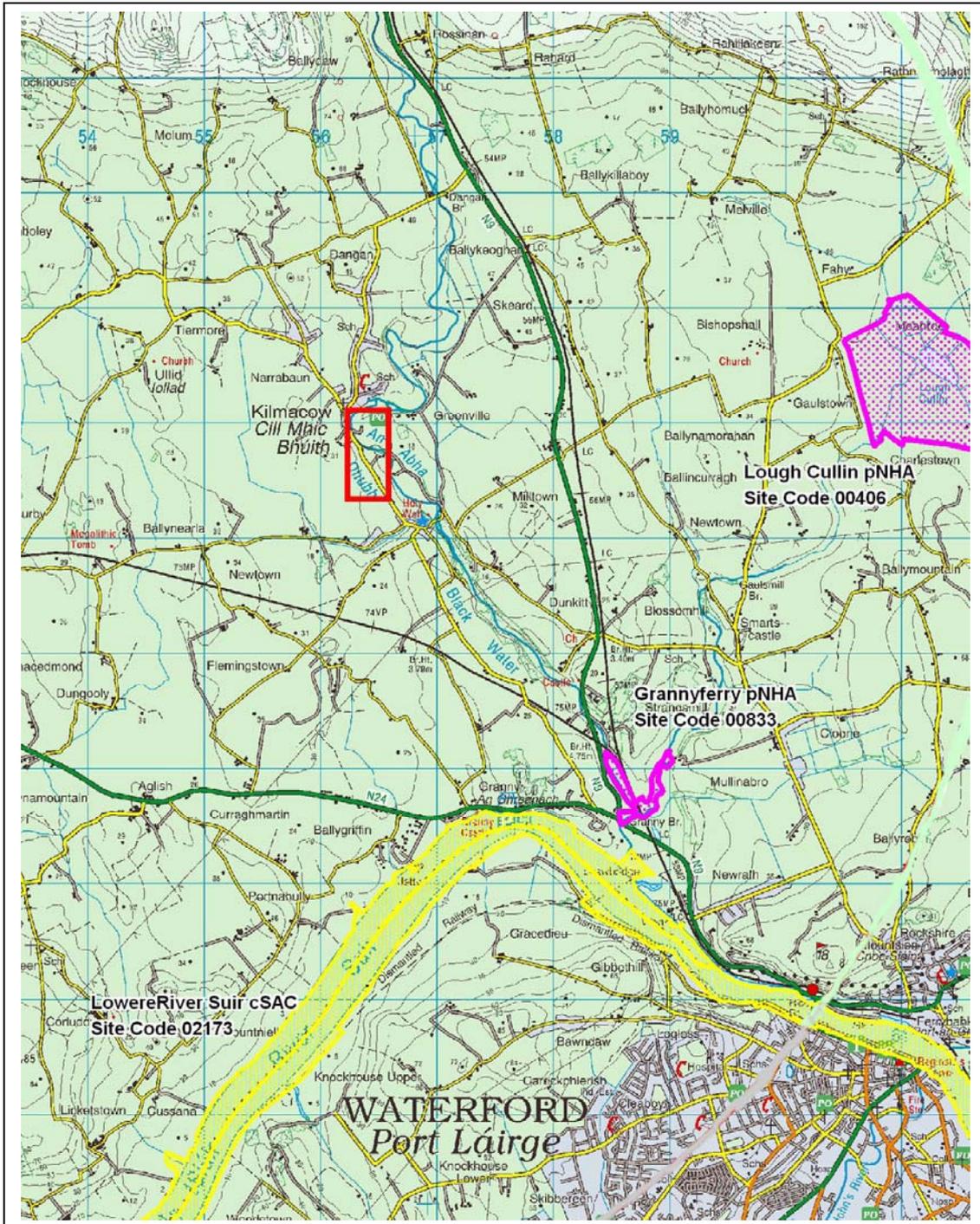
MAP A: LOCATION MAP OF KILMACOW



# MAP C



# MAP D



MAP D: DESIGNATED SITES IN THE VICINITY OF KILMACOW

