



An Roinn  
Cultúir, Oidhreachta agus Gaeltachta

Department of  
Culture, Heritage and the Gaeltacht

Our Ref: **G Pre00246/2017** (*Please quote in all related correspondence*)

20 December 2017

Denis Malone,  
Senior Planner,  
Planning Department,  
County Hall,  
John Street,  
Kilkenny

Via email to [ourplan@kilkennycoco.ie](mailto:ourplan@kilkennycoco.ie)

**Re: Abbey Quarter Draft Urban Design Code**

A chara

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

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

**Archaeology**

It is noted that the Urban Design Code for Kilkenny Urban Quarter is prepared to complement the current Abbey Quarter Masterplan (2016). In 2015 the National Monuments Service (both the Planning and Licensing Unit and Underwater Archaeology Unit) issued comments and requirements with regard to the Masterplan (ref: FP2015/065; see below attached). These remain unchanged and are again reiterated below and should be considered equally as applicable to the proposed Design Code for Kilkenny Urban Quarter. With regard to underwater cultural heritage, we specifically note the proposal for a linear park along the northern bank of the River Nore and the proposed pedestrian and cyclist priority crossing the River Breagagh. As previously requested, a full and detailed underwater archaeological impact assessment (UAIA) shall be carried out in advance of any works to inform the final Archaeological Strategy for the Masterplan and proposed Design Code for Kilkenny Urban Quarter. The UAIA shall include proposed works at both rivers – Nore and Breagagh.

**Nature Conservation**

This Department notes that this is a non-statutory plan and that it has been screened for appropriate assessment (AA). This Department refers you to the nature conservation comments of our previous submission on the Masterplan dated 21<sup>st</sup> July 2015, our ref FP2015/065, attached for your information. In particular, the advice of this Department relating to not using a 15 km radius appears to have been overlooked. In this instance a catchment based assessment when screening for AA and cumulative impacts would be more appropriate.

In the previous submission this Department noted that some of the riverbank appeared from photographs to still have natural riverbank vegetation which may well be used by otters which are a qualifying interest of the River Barrow and River Nore Special Area of Conservation (SAC) (site code 002162) designated under the EC Habitats Directive (Council Directive 92/43/EEC). The river

is also designated as the River Nore Special Protection Area (SPA) (site code 004233) designated under the EC Birds Directive (Directive 2009/147 EC) for kingfisher. The main concern of this Department is that the proposed linear park/riverside garden cycleway and walkway will negatively impact on the European sites and on biodiversity in general.

This Department therefore wishes to reiterate its previous comments of 2015 that, apart from a risk to water quality which, depending on the hydrological conditions, could have an impact some distance downstream, there is also a risk to the qualifying interests of the European sites, particularly kingfishers and otters. While the original NIR has concluded no significant adverse effect on the integrity of the Natura 2000 network, this has been done on the basis of mitigatory policies. This Department would have expected some data to be presented of the use of the site by otters and kingfishers in the original NIR which would lead to recommendations with regard to ecological constraints that may be present and could impact on the design of the linear park. Alternatively, an assumption that these species are present could have been made and a discussion included of the type of mitigation necessary to ensure no adverse impacts on these species, including their food source and the aquatic and terrestrial habitats they use.

As stated previously it will be essential that, prior to any final design for the linear park/riverside garden, an ecological survey/EcIA will be necessary to ensure no negative impacts on the qualifying interests for the Natura 2000 sites. It will also be essential that the ecologist working on the appropriate assessment (AA) screening/AA for the project is consulted at the start of the project so that any necessary mitigation or design changes can be incorporated early in the project.

This Department also notes that the route will have lighting. If bat species currently use this stretch of river for feeding then a bat expert must be consulted regarding suitable lights to be used and monitoring must be put in place. Should the monitoring show a decline in the use of the site by bats then the lighting will need to be modified.

Rivers act as ecological corridors as per article 10 the Habitats Directive. Therefore it is important to ensure that, as much as possible in the current urban situation, it can retain this function. Therefore the landscape plan of the riverside garden/linear park must consider this issue.

In addition the opportunity should be taken to put in place measures to assist with the implementation of the All Ireland Pollinator Plan 2015-2020 in the linear park/riverside garden.

You are requested to send further communications to this Department's Development Applications Unit (DAU) at [manager.dau@chg.gov.ie](mailto:manager.dau@chg.gov.ie) (team monitored); if this is not possible, correspondence may alternatively be sent to The Manager, Development Applications Unit (DAU), Department of Culture, Heritage and the Gaeltacht, Newtown Road, Wexford, Y35 AP90

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Yvonne Nolan  
Development Applications Unit

*Encl: This Department's previous submission on the Masterplan dated 21<sup>st</sup> July 2015, our ref FP2015/065*



**An Roinn**  
**Ealaíon, Oidhreachta agus Gaeltachta**  
**Department of**  
**Arts, Heritage and the Gaeltacht**

21 July 2015

**Our Ref: FP2015/065**

Sean McKeown  
Director of Services  
Planning Section  
Kilkenny County Council  
John Street  
Kilkenny  
[ourplan@kilkennycoco.ie](mailto:ourplan@kilkennycoco.ie)

**Re: Draft Masterplan for Abbey Creative Quarter (Former Smithwick's Brewery site and Bateman Quay / Market Yard area)**

A Chara,

On behalf of the Department of Arts, Heritage and the Gaeltacht, I refer to the planning authority's recent correspondence in relation to the above. Outlined below are heritage-related observations/recommendations of the Department under the stated heading(s).

**Archaeology**

Meetings between representatives of Kilkenny County Council and the Department of Arts, Heritage and the Gaeltacht were held on 27/03/2014, 04/12/2014 and 07/05/2015 to discuss the ongoing preparation of the Framework Plan and the Draft Archaeological Strategy. The comments below should be read in conjunction with the Department's previous submissions to Kilkenny County Council dated 13/12/2013, 18/11/2014 and 12/03/2015 relating to the Draft Framework Plan and SEA scoping.

Having examined the Draft Masterplan for the Abbey Creative Quarter, including the Draft Archaeological Strategy, please note that the Department concurs with the conclusions and recommendations outlined and wishes to add the following observations and recommendations in relation to archaeology.

An undertaking has been given by the Local Authority to include an evaluation of any potential underwater archaeological impacts within the plan area. The Draft Archaeology Strategy (Courtney Deery Heritage Consultancy Ltd.) does not contain a detailed strategy in relation to underwater archaeology. This matter should be addressed in any future revision to the overall Archaeology Strategy to be contained in the Abbey Creative Quarter Masterplan.

An assessment of the findings of all previous archaeological investigative work carried out within and in the vicinity of the plan area has been carried out and included in Section 3 of the Draft Archaeology Strategy. This has led to the identification of a number of "historic character areas" within the Framework Plan area (Section 6.4 Draft Archaeological Strategy). Comprehensive test

excavations will be required to ground truth and to supplement the findings of the desk based assessment (as outlined in Section 6.5 Draft Archaeological Strategy). As stated in the report, “*as this is an iterative process testing and excavation will inform the final detailed design proposals.*” The results of the testing shall inform the finalising of layouts for the proposed development within the overall Masterplan area and should therefore be carried out at as early an opportunity as possible.

It is imperative that the findings and recommendations of the archaeological strategy influence and inform the final design and development layout within the overall Framework Plan area. Having considered this recommendation, the Local Authority has given an undertaking in Section 6 (page 156) of the Draft Archaeological Strategy to carry out archaeological excavation in the Abbey precinct area, testing in the area of St. Francis’ Well and possible towers, testing in the vicinity of Evan’s Tower and to carry out further archaeological assessment (boreholes followed by archaeological testing) within the overall framework plan area in order to inform the ongoing development of the Archaeological Strategy to be incorporated into the final Framework Plan/Masterplan. The Department welcomes this approach but emphasises the necessity to carry out this programme of testing/assessment at the earliest opportunity possible to ensure that the findings inform any final design and layout for development within the overall Framework Plan area. Details of the phasing of the proposed archaeological excavations and programme of archaeological assessment/testing (boreholes/testing etc.) within the overall framework plan area should be outlined in Section 6.9 Phasing (page 170).

As previously recommended, any archaeological strategy adopted as part of the final Framework Plan will need to outline a detailed step-by-step procedure to be followed by prospective individual developers/applicants and design teams when developing sites within the area. A set of archaeological guidelines could be provided to prospective developers/applicants to ensure that the necessary steps are taken to protect the archaeological heritage. Such an approach is recommended to ensure that the archaeological implications and potential cumulative impact of separate developments on the archaeological heritage surviving within the medieval core of Kilkenny City (i.e. the Framework Plan area) is adequately assessed and appropriate mitigatory measures implemented in advance of development as part of the planning framework.

The Draft Archaeology Strategy has acknowledged that “*investigations into retaining the existing slab will be required to assess the load bearing capacity and effectiveness from an engineering point of view so the overall approach (i.e. piling construction methods) can be validated.*” (Section 6, page 147, Draft Archaeology Strategy). The Department of Arts, Heritage and the Gaeltacht has previously recommended and wishes to reiterate that the condition and load bearing capacity of the concrete slab will require assessment as will the nature and extent of archaeological remains surviving below the slab before any method of archaeological mitigation can be suggested and agreed with the relevant authorities. It cannot be assumed that the retention of the concrete slab and piling construction methods is the optimum solution until detailed and site specific archaeological assessments are carried out on each development site within the Framework Plan area. This requirement should also be detailed in any archaeology guidelines prepared for future development within the Masterplan area.

The preservation *in-situ* of archaeological remains and the application of piling as a construction method within the Abbey Creative Quarter Plan area is discussed in Section 6.3 (pages 146-147) of the Draft Archaeological Strategy. As noted above, this approach cannot be assumed to be the optimum solution to ensure preservation in-situ until site specific archaeological investigation and assessment has been carried out. Furthermore, archaeological assessments should cover issues relating to current and future site conditions (groundwater levels, water quality, soil chemistry, pH levels, redox potential, maintenance and monitoring of site conditions to ensure preservation in-situ, etc.) to ensure that any proposed mitigation strategy will result in the long-term preservation in-situ of archaeological remains where such construction methods are applied. This requirement should also be detailed in any archaeology guidelines prepared for the Masterplan area.

The Department of Arts, Heritage and the Gaeltacht welcomes the proposal that *“there will be no basemented structures”* developed within the Framework Plan area (Section 6, page 147, Draft Archaeology Strategy).

Section 6.1 of the Draft Archaeological Strategy (Revising of the Masterplan Area) states that *“work associated with the redevelopment of the plan area has sought to protect the historic character, the monuments, their setting, views and prospects and encourage the creation of new vistas to existing landmarks.”* New views to and from National Monuments and significant historical sites and landmarks within the City including St. Canices Cathedral and round tower, Bishops Palace, St Marys Church and graveyard, St. Francis Abbey, Tholsel, Kilkenny Castle, City defences, historical bridges, etc. will potentially be opened up and the protection and enhancement of this intervisibility should be a critical element of any landscape assessment.

### **Proposed Social Housing (Objective 8 of Proposed Variation No. 1 to Kilkenny City and Environs Development Plan 2014-2020)**

An archaeological impact assessment involving archaeological testing (licensed under the National Monuments Acts) will be required in this area in advance of any site preparation and/or construction works to determine the presence/absence of archaeological remains and to mitigate accordingly.

### **Proposed Access (Objective 9 of Proposed Variation No. 1 to Kilkenny City and Environs Development Plan 2014-2020)**

The Draft Archaeological Strategy does not include specific reference to the proposed “urban street of pedestrian and cyclist priority between the Central Access Scheme and Bateman Quay crossing the River Breagh at the existing bridge crossing.”

The Department is concerned regarding any potential visual impact the proposed ramped access (urban street of pedestrian and cyclist priority) from the Central Access Scheme (CAS) to the Framework Plan area may have on the setting and amenity of the adjacent National Monuments (St Francis Abbey and City Defences, Evans Tower) and the nearby St. Canices Cathedral and ecclesiastical site. This matter should be addressed in any landscape assessment carried out as part of the Framework Plan.

It is the Department’s understanding that the An Bord Pleanála determination in relation to the Central Access Scheme (CAS) did not include permission relating to any access or slipway to the Abbey Quarter Masterplan area. Details regarding any required Part 8 applications or other permissions should be provided in the final Framework Plan.

In the consideration of alternative scenarios regarding access for the Masterplan/Framework area, it has been noted that development options will be examined including for transport. It is important that the various options for proposed access points (i.e. road access, emergency access, pedestrian access, bridge, etc.) be archaeologically assessed to ensure that the access points and proposed roadways/streets within the Framework Plan area are positioned, designed and constructed to ensure the preservation and protection of both the amenity and physical remains (both above and below ground) associated with the National Monuments located within the Plan area.

### **Programme of Works at St. Francis Abbey (National Monument) – St. Francis Abbey Park Objective (2) and Conservation Plan Objective (3)**

The Local Authority has stated in the SEA report relating to the proposed Variation No. 1 to the current development plan that there will be consultations with the Department and the Office of Public Works (OPW) *“to get available details with respect to the long-term conservation and management of St. Francis Abbey in the context of the Framework Plan”* and these details will be included in the final Framework Plan. Section 6 of the Draft Archaeological Strategy states that *“as St Francis’ Abbey is in state care it is presumed that conservation will be undertaken by the authorities as necessary.”* It is important that this matter be addressed in the final Framework Plan.

The long-term conservation, interpretation and presentation of St. Francis Abbey and any additional masonry/archaeological remains uncovered during the proposed archaeological excavations within the Abbey precinct shall require a conservation and management plan in advance of any such works on site. Objective No. 3 in the proposed Variation No. 1 to the Development Plan proposes to prepare such a Heritage Conservation Plan in conjunction with the Heritage Council, OPW, Department of Arts, Heritage and the Gaeltacht, National Monuments Service and other relevant stakeholders. The preparation of such a plan should be addressed in the proposed Phasing in Section 6.9 (page 170) of the Draft Archaeological Strategy.

## **Nature Conservation**

### **Masterplan**

This Masterplan includes a proposal for a new linear park along part of the River Nore to link up with other parts of the linear park already in existence. It will consist of walking and cycling facilities along the riverbank as well as access points to the river for water based leisure activities. Therefore there is potential from this proposal for an impact on the River Nore Special Protection Area (SPA) (site code 004233) designated under the EC Birds Directive (Directive 2009/147 EC), the River Barrow and River Nore candidate Special Area of Conservation (cSAC) (site code 002162) designated under the EC Habitats Directive (Council Directive 92/43/EEC) and downstream to the Lower River Suir cSAC (site code 002137). The Masterplan recognises the potential impacts on Natura 2000 sites and the proposed development will be subject to compliance with the Birds and Habitats Directives. Potential effects have been assessed in the SEA and the Natura Impact Report (NIR).

### **SEA**

While overall the SEA is comprehensive with respect to the natural heritage it has unfortunately been restricted to looking at designated sites within a 15km radius which is a rule of thumb often used for Plans but is not suitable for rivers where a whole catchment may need to be included.

The SEA objectives B1-B3 are comprehensive. However the indicator for B1 has been restricted to the article 17 reports of this Department which does not include birds. In addition objective B3 has only included compliance with the Wildlife Acts 1976-2010 with regard to the protection of species in schedule 5. This means that birds and plants have been omitted. All wild birds are protected under the Wildlife Acts and protected plants are listed in SI 274 of 1987.

The SEA refers to a habitat survey which indicates the habitats to be impacted are “River Nore” and “grassy banks”. The photographs in the Masterplan appear to indicate that some of the river is bounded by wall but that some still has riverbank vegetation. Such vegetated areas are important refuges for biodiversity and may be used by otters. Prior to any final design for the linear park an ecological survey/ ecological impact assessment (EclA), will be necessary to ensure no negative impacts on the ecological corridor or species such as otter and kingfisher, listed on the annexes of the Habitats and Birds Directives respectively.

Prior to finalising project details the Local Authority may find it useful to consult the IFI publication entitled “Planning for watercourses in the urban environment” which can be downloaded from their web site at <http://www.fisheriesireland.ie/fisheries-management-1/86-planning-for-watercourses-in-the-urban-environment-1> .

With regard to bat species, which are protected under the Wildlife Acts and listed on annex IV of the Habitats directive, any Plan for the area must take account of bat roosts and foraging sites and appropriate lighting should be used so as not to negatively impact on bat species where necessary. The SEA does not appear to have sourced any baseline data on bats.

## **NIR**

As with the SEA, the NIR has been restricted to looking at designated sites within a 15km radius which is a rule of thumb often used for Plans but is not suitable for rivers where a whole catchment may need to be included. This means that the Lower River Suir cSAC has been excluded.

Cumulative impacts are examined in table 2-3. However, this does not include the linear parks already in existence which could have a cumulative impact with the new one proposed.

Apart from a risk to water quality which, depending on the hydrological conditions, could have an impact some distance downstream, there is also a risk to the qualifying interests of kingfishers and otters. While the NIR has concluded no significant adverse effect on the integrity of the Natura 2000 network, this has been done on the basis of mitigatory policies. This Department would have expected some data to be presented of the use of the site by otters and kingfishers in the NIR which would lead to recommendations with regard to ecological constraints that may be present and could impact on the design of the linear park. Alternatively, an assumption that these species are present could have been made and a discussion included of the type of mitigation necessary to ensure no adverse impacts on these species, including their food source and the aquatic and terrestrial habitats they use.


It will be essential therefore, as stated above for SEA, that prior to any final design for the linear park an ecological survey/EcIA will be necessary to ensure no negative impacts on the qualifying interests for the Natura 2000 sites. It will also be essential that the ecologist working on the appropriate assessment (AA) screening/AA for the project is consulted at the start of the project so that any necessary mitigation or design changes can be incorporated early in the project.

You are requested to please send further communications to Development Applications Unit (DAU) via eReferral, where used, or to [manager.dau@ahg.gov.ie](mailto:manager.dau@ahg.gov.ie); if emailing is not possible, correspondence may alternatively be sent to:

The Manager  
Development Applications Unit  
Department of Arts, Heritage and the Gaeltacht  
Newtown Road  
Wexford  
Y35 AP90

In addition, please acknowledge receipt of these observations by return.

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**Yvonne Nolan,**  
**Development Applications Unit**  
**Tel: (053) 911 7382**