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by e-mail to ourplan@kilkennycoco.ie

RE: “Material Alterations to Draft Callan Local Area Plan”

Dear Denis,

Please see my submissions below.

[Submission: Availability of documents.](#)

[Submission: Unavailability of required documents.](#)

[Submission: Appropriate Assessment Screening](#)

Regards,

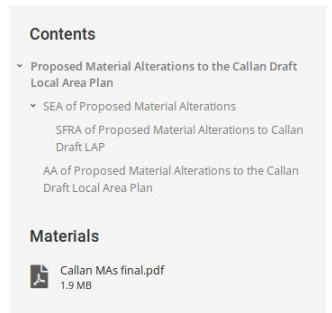
Christopher O’Keeffe

Submission: Availability of documents.

I note there are 4 documents available online at consult.kilkenny.ie:

- [Proposed Material Alterations to the Callan Draft Local Area Plan](https://consult.kilkenny.ie/en/system/files/materials/2650/Callan%20MAs%20final_0.pdf)¹
- [SEA of Proposed Material Alterations](https://consult.kilkenny.ie/en/consultation/proposed-material-alterations-callan-draft-local-area-plan-2019/chapter/sea-proposed)²
- [SFRA of Proposed Material Alterations to Callan Draft LAP](https://consult.kilkenny.ie/en/consultation/proposed-material-alterations-callan-draft-local-area-plan-2019/chapter/sfra-proposed)³
- [AA of Proposed Material Alterations to the Callan Draft Local Area Plan](https://consult.kilkenny.ie/en/system/files/materials/2650/Callan%20LAP%202019%20MA%20AA.pdf)⁴

I note that none of these documents are available in my local library (Kilkenny City Library).



It is my submission that - all documents which are part of public consultations should be available in all public libraries during the consultation period.

Submission: Unavailability of required documents.

The document “Strategic Environmental Assessment of Proposed Material Alterations to the Draft Callan Local Area Plan 2019” states that it is an “*Addendum to the **Environmental Report***”. The document “PROPOSED MATERIAL ALTERATIONS – APPROPRIATE ASSESSMENT SCREENING REPORT AND NATURA IMPACT REPORT” states that “*No adverse effects anticipated if the proposed zoning is adhered to in - combination with the proper implementation of the proposed mitigation measures (as set out in the NIS)*”. The *Determination on page 33* it says “*To this end, a report entitled “**Appropriate Assessment Screening**” has been prepared.*” The document “Proposed Material Alterations to the Callan Draft Local Area Plan 2019” says that “*Significant effects arising from two of the proposed material alterations cannot be excluded so an appropriate assessment of these alterations is required, and therefore an SEA and **Stage 2 Appropriate Assessment** has been carried out.*”

No adverse effects anticipated if the proposed zoning is adhered to in-combination with the proper implementation of the proposed mitigation measures (as set out in the NIS).

These documents - “Environmental Report” and “*Appropriate Assessment Screening*” and “*Natura Impact Statement (NIS)*” are not available online at consult.kilkenny.ie and/or they are unavailable in my local library.

It is my submission that - all environmental documents (including “Environmental Reports” , “*Appropriate Assessment Screening*” and “*Natura Impact Statement (NIS)*”) which are part of public consultations should be available online at consult.kilkenny.ie.

¹ https://consult.kilkenny.ie/en/system/files/materials/2650/Callan%20MAs%20final_0.pdf

² <https://consult.kilkenny.ie/en/consultation/proposed-material-alterations-callan-draft-local-area-plan-2019/chapter/sea-proposed>

³ <https://consult.kilkenny.ie/en/consultation/proposed-material-alterations-callan-draft-local-area-plan-2019/chapter/sfra-proposed>

⁴ <https://consult.kilkenny.ie/en/system/files/materials/2650/Callan%20LAP%202019%20MA%20AA.pdf>

Submission: Appropriate Assessment Screening

It is my submission that - the purported NIS is flawed.

In order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.

It is my submission that - Kilkenny County Council should review CJEU case law related to the Habitats Directive and Appropriate Assessment. For example see Case C-404/09, Case C-258/11, Case C-164/17, Case C-323/17 and most recently Case C-461/17 related to the Ring Road in Kilkenny.

“So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned (see, to this effect, Case C-404/09 *Commission v Spain*, paragraph 100 and the case-law cited).”

It is my submission that - Kilkenny County Council should follow the guidelines "Managing Natura 2000 sites The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC" Brussels, 21/11/2018