

Second Manager's Report

on submissions and observations

received in relation to the

Proposed Amendments

to the **Draft Ballymote Local Area Plan 2012-2018**

22 August 2012

Sligo County Council
Development
PlanningUnit

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1. Introduction

Sligo County Council commenced the review of Ballymote LAP 2005-2011 in November 2011, with the publication of a Consultation Paper. Pre-draft consultation took place between 9 November and 9 December 2011.

Following pre-draft consultation, a Draft LAP was prepared and placed on public display from 23 January to 5 March 2012. In total, thirteen submissions and a supporting letter were received in response to the invitation to comment on the Draft LAP.

The First Manager's Report was submitted to the members of Sligo County Council on 17 April 2012.

At the ordinary meeting of 14 May 2012, the members of Sligo County Council considered the Draft LAP and the First Manager's Report and resolved to make a number of amendments to the Draft Plan.

2. Proposed amendments to the Draft LAP

The members resolved to propose a total of 18 amendments to the Draft LAP. Of these, 17 were based on the Manager's recommendations made in the First Manager's Report. The additional amendment, proposed by the members, conflicted with the Manager's recommendations.

There were 11 amendments proposed to the text of the Draft LAP, 3 amendments proposed to map legends, 3 proposed zoning amendments and one proposed amendment relating to a transport objective.

The amendments recommended by the Manager remain largely within the scope of the Draft LAP, although some of these amendments are material alterations. These 17 amendments would not change the conclusion of the initial SEA Screening Report associated with the Draft LAP.

However, the additional amendment proposed by the members (A-17) has been assessed as having the potential to impact significantly on the environment.



Proposed Amendment A-17

Change the zoning of the site marked A-17 on the Proposed Amendments Map from 'open space' to 'residential uses'.

The Planning Authority considered that some of the proposed amendments, if made, would be material alterations of the Draft LAP. Consequently, a further period of public consultation was deemed necessary. This further consultation could take place only after the proposed amendments had been assessed for potentially significant environmental effects.

3. Strategic environmental assessment of the Proposed Amendments

Pursuant to S. 20(3)(f) of the Planning and Development Act 2000-2010, the Planning Authority determined that strategic environmental assessment was required in respect of one proposed material alteration of the Draft LAP. This proposed amendment, A-17, involves the zoning for residential use of an area included in the Zone of Archaeological Potential surrounding the recorded archaeological monument SL033-090.

The potential for significant environmental effects of the proposed amendments was assessed in the **Addendum I to the SEA Screening Report** relating to the Draft Ballymote LAP 2012-2018.

The assessment was undertaken in consultation with prescribed environmental agencies.

Of these, the Environmental Protection Agency (EPA) and the Department of Arts, Heritage and the Gaeltacht (DAHG) responded indicating the following:

EPA

In relation to Proposed Amendment A-17, in light of the existing available residential zoned lands within the Plan area, already available within the Strategic Land Reserve, it is unclear to what extent a need exists for further rezoning to residential purposes at this location. The Agency acknowledges Section 3 - Conclusion of the Assessment of the SEA Screening Report and the potential significant impact identified on the zone of archaeological potential. It should be ensured that any proposals for rezoning are done in agreement with and in consultation with the Department of Arts, Heritage and the Gaeltacht.

Consideration should be given to ensuring that any proposal for re-zoning of residential lands is set in the context of promoting sustainable development and is linked to the ability to provide adequate and appropriate critical service infrastructure in advance of permission for development being given. It should also be ensured that any such further development of residential zoned lands takes into account the existing economic climate.

It should be ensured that the proposed Amendments do not conflict with the Policies / Objectives of the County Development Plan and Regional Planning Guidelines in particular.

DAHG

A-17

This department has serious concerns regarding the proposed rezoning and would actively oppose the rezoning from “open space” to “residential”. The Recorded Monument (SL 033-90 – Ringfort) and the area sufficient to protect its amenity, character and setting around the monument should be excluded from any change of zoning.

The conclusion of the assessment was as follows:

The majority of the proposed amendments, if adopted, would not change the conclusion of the initial SEA Screening Report.

However, the proposed amendment A-17 has the potential for significant effects on the archaeological monument located in the vicinity of the subject site, and this is confirmed by the EPA and the DAHG.

Any development within the ZAP pertaining to a monument has the potential to impact on the monument and its setting by eroding them. Any further erosion of the ZAP, amenity, character and setting of the monument would be contrary to the policies for the protection of archaeological heritage as contained within the Sligo County Development Plan 2011-2017 (CDP) and the Department of Arts, Heritage and the Gaeltacht's policy guidance on protection of the archaeological resource as set out in the *Framework and Principles for the Protection of the Archaeological Heritage*.

It is considered that the limited residential zoning provision as shown on the Zoning Map/Detail in the Draft LAP, is appropriate and should be retained, with the remainder of the ZAP area zoned 'open space'.

4. Public consultation on the Proposed Amendments

After consultation with the environmental authorities and the preparation of the Addendum I of the SEA Screening Report, the Proposed Amendments and associated documents were placed on public display from 18 July to 15 August 2012. During this period, two submissions were received. These are listed in the table on the opposite page.

List of persons and organisations that made submission on the Draft Ballymote LAP

Ref. No.	Date Received	Name or Agency	On behalf of (where applicable)	Address
1	13/8/2012	J. Wendy Lyons & Assoc.	Mr. and Mrs. Kieran O'Dowd	Ballymote
2	15/8/2012	Patrick O'Sullivan	Minister for the Environment, Community and Local Government	e-mail

5. What happens next?

The Manager has responded to each submission individually and made appropriate recommendations.

On the 3rd of September, it is expected that the Members will adopt the new Ballymote LAP 2012-2018.

At this final stage, the Members must consider the Draft LAP, the Proposed Amendments, the SEA Screening Report and its Addendum I together with the Second Manager's Report (this report).

The Members may decide to adopt the LAP with all, any or none of the Proposed Amendments.

However, no new material alterations can be made at that stage.

The Planning and Development Act 2000 (as amended) provides the following in its **Section 19 Application and content of a local area plan:**

- (2) A local area plan **shall be consistent with the objectives of the development plan, its core strategy, and any regional planning guidelines that apply to the area of the plan** and shall consist of a written statement and a plan or plans which may include:
- (a) objectives for the zoning of land for the use solely or primarily of particular areas for particular purposes, or
 - (b) such other objectives in such detail as may be determined by the planning authority for the proper planning and sustainable development of the area to which it applies, including the objective of development of land on a phased basis and detail on community facilities and amenities and on standards for the design of developments and structures.

.....

- (2B) Where any objective of a local area plan is no longer consistent with the objectives of a development plan for the area, the planning authority shall as soon as may be (and in any event not later than one year following the making of the development plan) amend the local area plan so that its objectives are consistent with the objectives of the development plan.

Please also note the following paragraph extracted from **Section 20 Consultation and adoption of local area plans**, introduced in the Planning and Development Act 2000 through the 2010 Amendment:

- 20 (3) (r) When performing their functions under this subsection, **the members of the planning authority shall be restricted to considering the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives** for the time being of the Government or of any Minister of the Government.

6. Response to submissions

Submission no. 1

13 August 2012

J. Wendy Lyons & Assoc.

on behalf of Mr. and Mrs. Kieran O'Dowd

The submission relates to the **Proposed Amendment No. 17**, requesting the zoning of the subject lands for residential use.

Issue no. 1

The submission indicates that the O'Dowds intend to build a family home on the subject lands and "there was never a proposal to build on the monument or to build 8 houses to the acre".

The landowners also indicate that they "are quite prepared to sterilise the rest of the land" if they could get planning permission for "one house our family home".

Opinion

Following the adoption of the Ballymote LAP 2005-2011, pre-planning discussion took place with the O'Dowds in respect of their landholding. They have requested that sufficient land be zoned to accommodate a single dwelling (family home) at this location.

In response to this request, in the Draft Plan, a **site measuring circa 0.2 ha (0.5 acres)** has been zoned 'residential' on the landholding to facilitate the construction of the aforementioned dwelling house.

The submission made during the public consultation on the Draft LAP requested that an area of around **0.58 ha (1.43 acres)** be zoned 'residential/mixed uses'.

Having regard to the area of the site, of 1.43 acres, and a density of 8 units per acre, **there is potential to develop 11 residential units, i.e. a small housing scheme on the enlarged site.**

Ballymote is designated as a Key Support Town, with a recommended population level of 1,700 for the year 2017, in accordance with the Core Strategy of the County Development Plan 2011–2017.

During the 2012–2017 period, it is envisaged that the residential requirements of Ballymote will be met through a combination of existing vacant properties/properties under construction and new housing development on lands zoned for residential development. The Draft Plan estimates that there are 88 residential units that are vacant or under construction in Ballymote and these units alone have the potential to accommodate an additional population of approximately 229 persons (88 multiplied by 2.6 persons, the average size of a household in Ballymote as recorded in the 2006 Census). The additional residents would increase the total population of Ballymote above the recommended 1,700 level. There is therefore no justification for increasing the amount of land zoned for residential purposes above the allocation set out in the Core Strategy of the County Development Plan.

Having regard to the housing stock in Ballymote (including vacant and unfinished houses) and the level of extant permitted residential developments, it is considered that the additional residential zoning would exacerbate the existing situation whereby the potential housing capacity can already accommodate a population far in excess of that recommended in the Core Strategy of the Development Plan.

It is considered that the proposed residential zoning would conflict with the provisions of the Core Strategy of the Sligo County Development Plan 2011-2017 and Draft Ballymote LAP.

Issue no. 2

The submission includes an illustration based on the Proposed Amendments document, related to the proposed amendment A-17. A hand-drawn circle (in green) indicates “the true position of the monument before it was destroyed” (see below).

Extract from the Proposed Amendments document



- The red outline indicates the lands which were zoned 'open space' in the 2005-2011 LAP.
- The yellow rectangle inside the red line represents the area initially proposed to be zoned 'residential'.
- The purple outline inside the red line is the total area of land that would be zoned 'residential' if the proposed amendment is adopted.
- The black circle shows the extent of the Zone of Archaeological Potential

Extract from the O'Dowd submission of 13 August 2012



The illustration indicates that the centre of the Zone of Archaeological Potential (ZAP) surrounding the Recorded Monument is located to the south-west of the centre of the circle indicated on the map included in the Proposed Amendments document.

The submission is supported by a letter from archaeologist Martin Timoney, who states that “the true centre of the ringfort in question, SL RMP 33:90, is 14 m north-west of where it is shown on the Recorded Monuments and Places map”.

The submission also contends that the 1836 map of Ballymote “shows exactly where the monument was and is”.

Opinion

It is noted that, so far, the O'Dowds have argued that the “true location” of the centre of the monument and its associated ZAP would be:

- a. “14 metres to the south east of the centre of the monument” (cf. Submission no. 6 on the Draft Plan, addressed in the First Manager’s Report);

- b. “14 m north-west of where it is shown on the Recorded Monuments and Places Map” (cf. Martin Timoney’s letter attached to the present submission on the Proposed Amendments);
- c. to the south-west of the position indicated on the map included in the Proposed Amendments document, as shown in the illustration attached to the present submission (the green circle and note)
- d. in the exact location shown on the 1836 map of Ballymote.

As already stated in the First Manager’s Report, **it is outside the remit of the planning authority to determine the accuracy of the location of a monument, as recorded on the RMP maps. The maps which show the location of ZAPs are statutory documents to which the Council must adhere.**

These maps are supplied in digital format by the Department of Arts, Heritage and the Gaeltacht (DAHG). These maps are the exact digital translation of the 6-inch maps (issued in 1995) that form an integral part of the Record of Monuments and Places (RMP) as established under Section 12 of the National Monuments (amendment) Act 1994. The digital RMP map used for the Draft Ballymote LAP was received by the Council in 2010.

The 1836 map of Ballymote does not have the legal status of the RMP maps and therefore cannot be used as a base map for zoning purposes.

Issue no. 3

The cover letter accompanying the submission states that “it is the opinion of the archaeologist E. O’Carroll who declared SL033-090 a monument on behalf of the Monument Service that it was a platform and in poor condition, as the actual fort had been destroyed and the stone used elsewhere for building”. It is noted that no letter of confirmation from the said archaeologist has been enclosed with the submission.

Opinion

The “opinion of the archaeologist E. O’Carroll” mentioned in the submission is not supported by any letter or document from the said person.

The National Monuments Service of the DAHG has indicated that an archaeological monument is present at the location indicated on the statutory map and has ascribed a Zone of Archaeological Potential (ZAP) for the monument as per the RMP (1995).

However, the issue in this case is not whether the monument itself is in good or bad condition, but whether the lands covered by the Zone of Archaeological Potential (including a portion of the subject site) should be zoned for residential use or left as private open space.

It is considered that the zoning of the site subject to this submission should remain unchanged, i.e. open space.

Issue no. 4

The cover letter contends that the ZAP is unusually large in size and that “in the Record of National Monuments the ZAP is much smaller than the one used by Sligo County Council officials.”

Opinion

The ZAP area is an element of the digital RMP map and is as has been provided by the National Monuments Service of the DAHG in paper and digital format. Its location is identical to that outlined on the printed 6-inch map that preceded the digital RMP map.

Issue no. 5

The submission seeks to support the zoning amendment by arguing that there are other structures already built inside the ZAP.

The submission also encloses the site layout map of PL 06/612 (one house) as an example of development permitted within the ZAP.

Opinion

The layout map attached to the submission outlines a site located fully within an area which was zoned for residential use at the time of granting planning permission. Given the site’s location partly in the ZAP, the application was referred to the National Monuments Section in the DoEHLG. Permission was subsequently granted in the absence of a response from the DoEHLG.

The issue in this case is not whether or not planning permission can be granted for development on a site partly affected by a ZAP designation, but whether the lands covered by the Zone of Archaeological Potential (including a portion of the subject site) should be zoned for residential use or left as private open space.

Notwithstanding the existing and permitted development which impacts on the ZAP for the said monument, the Planning and Development Act 2000-2010 Section 10(2)(c) provides that a development plan shall include objectives for: 1) the zoning of land for the use solely or primarily of particular areas for particular purposes including open space and 2) the conservation and protection of the environment including, in particular, the archaeological heritage.

The Department of Arts, Heritage and the Gaeltacht in its publication *Framework and Principles for the Protection of the Archaeological Heritage* provides that, when considering archaeology, preservation ‘in-situ’ is the optimal and preferred policy approach.

In this context, any further erosion of the ZAP, amenity and setting of the monument would be contrary to the overarching objectives for the archaeological heritage as contained within the County Development Plan and the Department’s policy guidance on protection of the archaeological resource.

Accordingly, it is considered that the open space zoning provision around the monument, as shown on the Zoning Map/Detail in the Draft LAP, is appropriate and should be retained.

Recommendation

In addition to the Manager's opinion on the specific issues raised in the submission, it is necessary to re-emphasise **the main issue in this case: whether the lands subject to the Proposed Amendment A-17 should be zoned for residential use, as the amendment suggests, or should remain zoned 'open space'.**

The following are the main reasons why the Proposed Amendment should NOT be adopted:

A. The Proposed Amendment A-17 contravenes the Core Strategy of the CDP.

The Core Strategy allocates to Ballymote 21 hectares of greenfield residential land and recommends a population of up to 1,700 inhabitants by the year 2017.

Having regard to the housing stock in Ballymote (including vacant and unfinished houses) and the level of extant permitted residential developments, it is considered that the additional residential zoning would exacerbate the existing situation whereby the potential housing capacity can already accommodate a population far in excess of that recommended in the Core Strategy of the Development Plan.

B. The Proposed Amendment A-17 contravenes the archaeological heritage policies of the CDP.

The lands are partly located within the Zone of Archaeological Potential pertaining to Recorded Monument SL033-090.

The County Development Plan has clear, unambiguous archaeological heritage policies (see p. 101-102 of the CDP) seeking to "*protect and enhance archaeological sites, monuments, their setting, appreciation and amenity within the Plan area, including those that are listed in the Record of Monuments and Places (RMP) or newly discovered archaeological sites and/or sub-surface archaeological remains.*"

The Draft Ballymote LAP also includes relevant policies that were recommended by the DAHG at pre-draft stage, such as *AHP-1 – Protect the archaeological heritage of Ballymote from damage.*

C. The Proposed Amendment A-17 contravenes the strategic zoning policies of the CDP

The CDP states that the approach to zoning should be based on a number of principles, among which *ZP-3 – the core aim of protecting the environment landscape setting and heritage in and around settlements.*

The Proposed Amendment A-17 is in opposition with the following strategic zoning policies:

SP-Z-3 *Ensure that the amount of land zoned for residential uses is consistent with the requirements of the Core Strategy and the recommendations of the Border Regional Planning Guidelines. Lands proposed for zoning in excess of requirements, if any, shall be included in a strategic reserve for potential development after the lifetime of this Plan, in accordance with the Settlement Structure and Housing Strategy in operation at that stage.*

SP-Z-6 *Protect designated nature conservation sites, landscape, archaeology, valuable natural amenity areas, water and natural resources through appropriate zoning designations, while allowing for the possible further expansion of settlements in the long term.*

In conclusion, by adopting the Proposed Amendment A-17, the members would insert in the Ballymote LAP a zoning objective that would be contrary to the policies of the County Development Plan.

The Planning and Development Act 2000 (as amended) provides (in Section 19 (2)) that **"A local area plan shall be consistent with the objectives of the development plan, its core strategy, and any regional planning guidelines that apply to the area of the plan"**.

The Ballymote LAP has been reviewed in order to make it consistent with the policies and objectives of the County Development Plan and the Regional Planning Guidelines. The new Ballymote LAP 20012-2018 should not include any provision that would affect its consistency with the CDP and the RPGs.

Having regard to the aforementioned reasons, it is strongly recommended that the Proposed Amendment A-17 not be adopted.

Submission no. 2

15 August 2012

Patrick O'Sullivan, Planning & Housing (Policy & Finance)
on behalf of the Department of the Environment, Community and Local Government

Issue no. 1

The Department notes the material amendments to the draft Ballymote Local Area Plan. In particular it is noted that no amendments are proposed in relation to the point made by the Department in its letter to the Planning Authority dated 5th March 2012 concerning taking account of existing planning permissions for residential development and unfinished housing.

The Department feels that given the number of dwellings which have existing planning permissions and are in unfinished estates, and the possibility that an economic upturn could take place during the Plan period, it would be appropriate to take account of the existing permissions and unfinished residential developments.

This could be achieved by the Planning Authority making the assumption that say 30% of the total number of dwelling units falling into the permissions and unfinished category would be developed over the plan period. On the basis of such an assumption the amount of land in the Strategic Land Reserve category would be increased accordingly.

Opinion

The Department's previous submission (5 March 2012) suggested that "it would be useful for the Draft Plan to include an analysis of the interaction between permitted but uncompleted housing developments and the requirements for additional land for development taking into account the developments outlined in table 5.A".

The Manager's response to this was:

Table 5.A on page 32 of the Draft Plan sets out the number of houses completed (260 units), permitted but not built (211 units) and under construction (8 units).

It is presumed that the submission requests an explanation for the need to zone 20.5 hectares of land for residential use, considering the number of permitted but not built/not completed residential units.

Given the ongoing economic conditions, there is no guarantee that the permitted/not built residential units will be constructed or that the lands which have retained their residential zoning will be developed during the plan period.

However, it is considered appropriate to zone undeveloped lands for residential use in order to satisfy demand for particular house types (e.g. two-bed roomed units, given the drop in household size).

Some of the sites with permitted/not built residential schemes are located on the periphery of the town, quite far from the town centre. The lands which have retained their residential zoning are more suitably located in relation to the town centre and their development would help in the consolidation of the town.

Recommendation

No change to the Draft Plan.

In its submission of 5 March 2012, The Department also recommended that the text of subsection **5.3.3 Prioritising housing development** "becomes the policy for prioritising housing development, particularly with regard to existing planning permissions and unfinished housing estates. In its current form by adding the wording 'including applications for extension of duration of permissions' after the word 'applications' in Policy HP-5". The Manager's response to this was:

It should be noted that almost the entire text in subsection 5.3.3 is included in the wording of housing policies, on page 38 of the Draft Plan.

Policy HP-5 states the following:

HP-5 *Consider new applications for multi-unit residential development only if:*

- *the moratorium on multi-unit housing developments has ceased to have effect in Ballymote (by variation of the County Development Plan)*

AND

- *the lands are zoned for residential uses (i.e. not included in the Strategic Reserve)*

AND

- *there is sufficient capacity in the existing infrastructure to serve the proposed development.*

*The Department's suggestion is to modify the policy to state Consider new applications, **including applications for extension of duration of permissions** for multi-unit residential development only if...* etc.

It is noted that the County Development Plan does not contain a similar restriction on consideration of applications for extension of duration of planning permission. It would be therefore unreasonable to impose this restriction in the case of Ballymote.

Furthermore, there are only four sites to which the above restriction would apply (refer to Table 5.C on p. 33 of the Draft LAP).

Two of these sites are classified by the Department as “unfinished housing estates”. It would be against the best interest of the local community to refuse an extension of duration of the respective planning permissions, as such extension could facilitate the completion of the respective developments.

The other two occurrences of (still) live planning permissions are small backland/infill sites in the core residential area of Ballymote, where development has not commenced. An extension of duration of the respective planning permissions might contribute to the consolidation of the town, by facilitating the provision of accommodation in some of the most suitable locations in Ballymote.

Recommendation

No change to the Draft LAP.

It is evident from the above that the Department’s suggestions were duly taken into consideration, but it was not considered necessary to propose any amendments based on those suggestions.

It is now understood that the Department suggests that the Planning Authority should take account of existing planning permissions and unfinished housing by assuming that 30% of permitted/unfinished units would be completed during the lifetime of the LAP, following an upturn in the economy. Based on such assumption, the amount of greenfield land zoned for residential use should be reduced and the amount of land placed in the Strategic Land Reserve should be increased accordingly.

As already indicated above, it is considered that the Draft LAP has adequately addressed the issue of zoning in connection with the number of permitted and unfinished housing units. No additional changes are considered necessary.

Furthermore, it should be noted that no new amendments/material alterations can be proposed at this final stage before the adoption of the LAP.

Recommendation

No further change to the Draft LAP.