

Second Manager's Report

on submissions and observations
received in relation to the

Proposed Amendments

of the

Draft Strandhill Mini-Plan /

Proposed Variation No. 1 of

CDP 2011-2017

3 September 2013

Sligo County Council
Development
PlanningUnit

1. Introduction

1.1 The Draft Variation

The Draft Strandhill Mini-Plan/Variation no. 1 of the *Sligo County Development Plan 2011-2017* (SEDP) was on public display from 22 January to 5 March 2013 (both dates included).

The proposed variation involves the insertion of an additional chapter (Chapter 44) in Volume 2 of the CDP – Strandhill Mini-Plan. This chapter would comprise of a brief description of the settlement, a number of objectives specific to the locality and a set of maps (Zoning Map, Objectives Map, Transport Objectives Map and Designations Map).

The text and maps of the Draft Strandhill Mini-Plan were accompanied on public display by the following supporting documentation:

- Explanatory Note
- Strategic Environmental Assessment (SEA) Screening Report
- Appropriate Assessment (AA) Report
- Strategic Flood Risk Assessment Report

1.2 First Manager's Report

During this public consultation period, Sligo County Councils received 19 submissions on the Proposed Variation. One submission was received after the closing date.

The First Manager's Report on submissions and observations relating to the Draft Variation/Mini-Plan summarised all the issues raised in the submissions and gave the Manager's response to each one, including recommendations as to whether or not the Draft Variation/Mini-Plan should be modified. The First Manager's Report was submitted to the members of Sligo County Council on 15 April 2013.

1.3 Proposed amendments

On 13 May 2013, following public consultation on the Draft CDP Variation/Strandhill Mini-Plan, the members of Sligo County Council resolved to propose amendments to the Draft Variation/Mini-Plan. Some of these amendments, if made, would represent material alterations of the Draft Variation/Mini-Plan.

The potential environmental effects of the proposed amendments have been assessed. The assessment is presented in the Addendum I to the initial SEA Screening Report dated January 2013 and an updated Natura Impact Report.

The conclusion of the assessment is that **the Draft Variation/Mini-Plan, if adopted with the proposed amendments, is likely to have significant effects on the environment.**

The potential impact of the “community, sports and recreation” zoning on the site subject to the proposed amendments A-11 and A-17 could, theoretically, be prevented through the rigorous application of relevant County Development Plan provisions contained in **Section 7.1.2 Habitats Directive Assessment (Appropriate Assessment)** (p. 89-90 of the CDP) and the related **European and national designated natural heritage sites objectives** included in the same section.

However, the adoption of the proposed amendments A-11 and A-17 would conflict with the above-mentioned provisions of the CDP

1.4 Public consultation on the proposed amendments

The proposed amendments of the Draft Variation/Mini-Plan and the associated SEA Addendum and Natura Impact Report were subject to public consultation for a period of 4 weeks, from the 1st August to the 28th August 2013.

During this period, only three submissions were received. The issues raised in these submissions are outlined in Section 2 of this report, together with the Manager's opinion and recommendations.

1.5 The role of the elected members

Deciding whether to adopt or to reject the proposed variation of the CDP is a function reserved for the elected members of Sligo County Council.

The Members must consider the Draft Variation/Mini-Plan, the proposed amendments, the environmental reports relating thereto and the Manager's Report before they decide to make the variation with or without the proposed amendments.

Having considered the above-mentioned documents, the Members may decide to make the variation with or without all or any of the proposed amendments, or may refuse to make the variation.

It must be noted that the variation cannot be made with any modification (i.e. amendment) that would have significant effects on the environment or that would adversely affect the integrity of a European site.

1.6 Relevant legislation

According to **Section 13 (6)** of the Planning and Development Act 2000 as amended,

- (a) Subject to paragraphs (aa) and (ae), the members of the authority, having considered the proposed variation and manager's report may, as they consider appropriate, by resolution, make the variation which would, if made, be a material alteration, with or without further modification or they may refuse to make it and paragraph (c) shall apply in relation to any further modification.
 - (aa) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are required to be carried out as respects one or more than one proposed modification that would, if made, be a material alteration of the variation of the development plan.
 - (ab) The manager shall, not later than 2 weeks after a determination under paragraph (aa), specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in paragraph (aa).
 - (ac) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in paragraph (aa) is required, in at least one newspaper circulating in its area.
 - (ad) The notice referred to in paragraph (ac) shall state—
 - (i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in paragraph (aa) is required may be inspected at a stated place or places and at stated times, and on the authority's website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

- (ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in paragraph (aa) and made to the planning authority within a stated period shall be taken into account by the authority before the variation of the development plan is made.
- (ae) The planning authority shall carry out an assessment referred to in paragraph (aa) of the proposed material alteration of the draft development plan within the period specified by the manager.

.....

- (c) A further modification to the variation—
 - (i) may be made where it is minor in nature and therefore not likely to have significant effects on the environment or adversely affect the integrity of a European site,
 - (ii) shall not be made where it refers to—
 - (I) an increase in the area of land zoned for any purpose, or
 - (II) an addition to or deletion from the record of protected structures.

Further relevant provisions of **Section 13** are as follows:

- (7) In making a variation under this section, the members of the authority shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government.
- (11) A variation made to a development plan shall have effect from the day that the variation is made.

Section 177.V(c) of the Planning and Development Act 2000 (as amended), specifies the following:

Notwithstanding any other provision of this Act, or, as appropriate, the Act of 2001, or the Roads Acts 1993 to 2007 F276 [and save as otherwise provided for in sections 177X, 177Y, 177AB and 177AC], a competent authority shall make a Land use plan or give consent for proposed development only after having determined that the Land use plan or proposed development shall not adversely affect the integrity of a European site.

2. List of persons and organisations that made submissions on the Proposed Amendments of the Draft Strandhill Mini Plan/Variation No. 1 of CDP

Submission received during the public consultation period

Ref. No.	Date Received	Name or Agency	On behalf of (where applicable)	Address
01	16/08/2013	Tadhg O'Mahony, Senior Scientific Officer	SEA Section, Office of Environmental Assessment, Environmental Protection Agency	EPA Regional Inspectorate, Inniscarra, Co. Cork
02	20/08/2013	Raymond Foley	Programme and Regulatory Unit, National Roads Authority	St. Martin's House, Waterloo Road, Dublin 4
03	28/08/2013	Peigin Doyle and Hugh Mac Conville	n/a	Carnadough, Strandhill

3. Response to submissions

Submission no. 1

16 August 2013

Tadhg O'Mahony, Senior Scientific Officer
SEA Section, Office of Environmental Assessment
Environmental Protection Agency (EPA)

Issue no. 1

The Agency acknowledges the findings described in *Section 4 – Conclusion of the Assessment* in the SEA Screening Report. The Agency agrees with the recommendations that the proposed amendments A-11 and A-17 should not be included as part of the CDP Variation/Strandhill Mini Plan.

Opinion

Noted and agreed.

Recommendation

The proposed amendments A-11 and A-17 should not be adopted.

Issue no. 2

T. O'Mahony indicates that in the event that the proposed amendments A-11 and A-17 are to be incorporated into the Draft Variation, contrary to the SEA recommendations, they would give rise to a requirement for full SEA and AA of the Variation itself, in accordance with SEA and Habitats Directive prior to adoption.

Opinion

Noted. An appropriate assessment has been carried out and its outcome is presented in the updated Natura Impact Report that accompanied the Proposed Amendments on public display.

A Strategic Environmental Assessment has already been carried out for the County Development Plan. The current Draft Variation was accompanied by a SEA Screening Report, which found that the CDP, as varied, would not have any significant impacts on the environment. However, amendments were proposed and the potential environmental effects of these amendments were subsequently assessed in the **Addendum** to SEA Report, dated 1 August 2013. This **Addendum** clearly identifies and explains the potential negative impacts of certain proposed amendments, if taken in isolation.

The SEA Report will be updated upon adoption of the CDP Variation. The final SEA Report will become a part of the body of environmental reports that form the SEA of the County Development Plan.

The proposed amendments A-11 and A-17 to the Draft Variation have, indeed, potential for significant effects on the environment, i.e. on the Cummeen Strand/Drumcliff Bay SAC (site code 000627). These potential effects are detailed in the updated Natura Impact Report dated 1 August 2013.

The adoption of the proposed amendments A-11 and A-17 would conflict with the **Section 7.1.2 Habitats Directive Assessment (Appropriate Assessment)** and the related **European and national designated natural heritage sites objectives** included in the same section of the Sligo County Development Plan 2011-2017.

If the proposed amendments A-11 and A-17 are not adopted, a full SEA will not be required.

Recommendation

The proposed amendments A-11 and A-17 should not be adopted.

Issue no. 3

The EPA reminds the Planning Authority of its obligations under *Circular Letter SEA 1/08 & NPWS 1/08* in particular.

Opinion

A. Obligation to carry out Appropriate Assessment

The **Circular Letter SEA 1/08 & NPWS 1/08** indicates that “*Any draft land use plan (development plans, local area plans, regional planning guidelines, schemes for strategic development zones) 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 (normally called Special Areas of Conservation (SACs) or Special Protection Areas (SPAs)). The results of the screening should be recorded and made available to the public.*”

In any case where, following screening, it is found that the draft plan or amendment may have an impact on the conservation objectives of a Natura 2000 site or that such an impact cannot be ruled out, adopting a precautionary approach, then

- *an appropriate assessment of the plan must be carried out and*
- *in any case where a strategic environmental assessment (SEA) would not otherwise be required, it must also be carried out.”*

The Draft Variation has been screened for potential impact on Natura 2000 sites and it was found that such impact could not be ruled out. A number of amendments were recommended by the Manager in the First Manager’s Report in order to eliminate such impact.

However, additional amendments were proposed by the Members. It was found that there is potential for significant effects on Natura 2000 sites arising from the adoption and implementation of these proposed amendments. A Stage 2 Appropriate Assessment was carried out and the resulting Natura Impact Report was made available to the public as part of the consultation on the proposed amendments. A full SEA was not carried out for the reasons outlined in the Manager’s opinion on Issue no. 2 above.

B. Implications of a negative assessment

The **Circular Letter SEA 1/08 & NPWS 1/08** indicates that in the event of a negative assessment, “*a decision giving approval to that part of the plan cannot be given, unless a series of steps are carried out. These are:*

- *The examination of alternative solutions, including the option of not adopting that policy or other part of the plan. While the Directive suggests this step here, planning authorities are advised to examine alternative solutions and record their conclusions at the earlier stage of carrying out the assessment, so as to ensure that delays do not arise later.*
- *If it is determined that no alternative solution is preferable, for example, because any other solution would have more significant impacts on a Natura 2000 site, it will be necessary to establish that there are imperative reasons of overriding public interest, including those of a social or economic nature, if the plan or amendment is to be approved. Where a plan or amendment would impact on a habitat of “priority” importance in a Natura 2000 site designated for it (such habitats are indicated in the Annex I of the Habitats Directive with an asterisk), approval can only be granted for reasons of human health and public safety.*
- *In certain cases the provision of compensatory sites may also be proposed. Compensatory measures (normally improving or recreating habitat outside a Natura 2000 site) are a last resort and may be considered only when a decision has been taken to proceed with a plan or amendment despite its negative impact on the site and having regard to every proposed mitigating measure. This can happen only in the very exceptional circumstances set out in Art 6(4) of the Habitats Directive. The NPWS must be consulted in any case where such compensatory measures are considered. It should be noted that the European Commission must be informed of any instance where compensatory measures are applied, and in certain circumstances, must approve their application.”*

With regard to the proposed amendments A-11 and A-17, an alternative already exists in the Draft Variation/Mini-Plan, in the form of land zoned for community facilities outside the Cummeen Strand/Drumcliff Bay SAC.

Should the members decide that the alternative solution is not preferable, despite its significantly lower impact on the Natura 2000 site, it would be necessary to establish the existence of **imperative reasons of overriding public interest** if the proposed amendments A-11 and A-17 are to be adopted.

However, the adoption and implementation of the proposed amendments A-11 and A-17 would lead to **permanent loss of “priority” Annex I habitat (fixed coastal dunes), as indicated in the Natura Impact Report (June 2013). Therefore, the proposed amendments can only be adopted for reasons of human health and public safety.**

If the above criteria are met, compensatory measures will need to be put in place (i.e. the lost habitat will have to be recreated elsewhere). Any compensatory measures that may be proposed would require consultation with the NPWS and notification of the European Commission.

Recommendation

It is considered that there are no imperative reasons of overriding public interest that require the zoning of lands for community, sports and recreation within the Cummeen Strand/Drumcliff Bay SAC and the proposed zoning is not necessary in order to protect human health and public safety.

Therefore, the proposed amendments A-11 and A-17 should not be adopted.

Submission no. 2

20 August 2013

Raymond Foley on behalf of the
Programme and Regulatory Unit
National Roads Authority (NRA)

Issue no. 1

The Authority has no comments to make on the proposed amendments to the draft CDP variation.

Opinion

Noted.

Recommendation

No recommendation is necessary on foot of this submission.

Submission no. 3

28 August 2013

Peigin Doyle and Hugh Mac Conville

Issue no. 1

The submission refers to the proposed amendment A-16 (“Change the zoning of the **site marked A-16** on the Proposed Amendments Map from ‘buffer zone’ to ‘residential uses’ and indicate on the Zoning Map that only one house is to be accommodated on the site”).

P. Doyle and H. Mac Conville oppose the proposed amendment because:

- it conflicts with the Core Strategy of the CDP, by increasing the amount of greenfield land zoned for residential development above the threshold recommended for Strandhill;
- it conflicts with the principle of locating development within the “village centre/development zone”;
- development at that location would impact on the scenery/views of Knocknarea and on access to the mountain.

Opinion

The site subject to the proposed amendment A-16 is located in the buffer zone, to the south of the development limit, at a remove from the village core, at the end of a ribbon development consisting of residential units. The site is on the eastern side of the R292 – a scenic route, on the lower western slopes of Knocknarea, where views of the mountain are protected by the CDP.

Strandhill Mini-Plan is designed to implement the CDP’s general policies and objectives, including landscape protection objectives and the policy discouraging ribbon development and urban sprawl. For these reasons, the subject site and surrounding area have been designated as buffer zone.

The adoption of the proposed amendment A-16 would conflict with the above-mentioned provisions of the CDP and may result in a negative visual impact on the scenic landscape at the foot of the Knocknarea Mountain.

Recommendation

The proposed amendment A-16 should not be adopted.

Other issues

The submission refers to issues such as public rights of way, walking routes, buffer zone, flooding, footpaths, the enterprise zone beside the Airport, the beach at Culleenamore, vernacular buildings, historic place names and street furniture.

However, the above issues are not connected to any of the proposed amendments and cannot be taken into consideration at this stage. The Manager has already expressed an opinion on these issues in the First Manager’s Report, in response to Submission no. 7 received from Peigin Doyle on 4 March 2013, which had a similar content.

Opinion

Noted.

Recommendation

No recommendation can be made on foot of Issue no. 2 of this submission.

Manager's Final Recommendation

It is recommended that the **CDP Variation No. 1 / Strandhill Mini-Plan**
is adopted in the form of the Draft Variation
together with the following proposed amendments:
A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-12, A-13, A-14, A-15, A-18

and WITHOUT the following amendments:

A-11, A-16 and A-17