To the Housing, Local Government and Heritage Committee of the Oireachtas
22nd February 2023

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Keep Ireland Open is an independent, voluntary, non-party political, nondenominational CLG founded in 1994. Presently, KIO is primarily an umbrella organisation that brings together the various recreational bodies that share the same aims. In addition we have many individual members and the validity of our mandate has been gradually recognised by the authorities and we are increasingly being consulted directly by government and local authorities on access and related matters.

Recreational users have minimal rights to access the countryside yet there are vital reasons for improving access for walkers and hikers in the country:

- There are clear economic benefits for the country from encouraging walking tourism in Ireland given our scenic countryside and upland areas, for example, Mayo Co. Council reckons that the Western Greenway brings in €7.2 million annually to the local economy. Over 10 years ago a report done for the Irish Sports Council estimated that overseas hikers and walkers generated €640 million annually, a figure which should be much larger today.
- To address climate change by making home holidays more attractive and reduce flying and general transport emissions.
- To improve the health and fitness of the population and reduce pressures on our over-stretched health services, following on from COVID.
- Better access will boost local economies and increase footfall in towns and villages away from Dublin and other Irish cities.

We would refer you to the recent report by Comhairle na Tuaithe strongly supporting better access to the countryside (https://www.gov.ie/pdf/?file=https://assets.gov.ie/240596/8f843f7b-c08c-42eb-bc5c-f31d6bdea38b.pdf#page=null) and more research can be offered if the committee wish.

Having reviewed the Planning Bill and in particular sections 242, 243, 245 & 385 which cover the creation of a public right of way, their maintenance and any compensation, we would like to draw attention to the following points and recommendations.

Issue 1: No option to appeal where a public ROW has not been included in a CDP
59(5) allows landowner appeal right of way that is newly added to a CDP.

But there is no recourse for community members where councillors have rejected the insertion of a public ROW. This incentivises the rejection of public ROWs by the council to avoid circuit court appeals by landowners even in circumstances where there is evidence of a public ROW.

Where a public submission has been made within the CDP submissions period to insert a public ROW in the CDP, and where the councillors have voted not to include this right of way, the submitter(s) should have the option of appealing this decision to the circuit court in the same manner.

Solution: The Bill should include a new subsection as follows:

(xx) Any person who has made a submission regarding public ROW during the submission period may, before the expiry of the period of 21 days beginning on the date of service appeal to the Circuit Court, on notice to the planning authority, against the rejection in the development plan of the proposed provision, and the Court, if satisfied that a public right of way exists, shall so declare and the provision shall, subject to subsection (7), accordingly be included.

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Issue 2: Double standards on treatment of court decision regarding public ROWs

Subsection 8(b) if the court declares a public ROW exists, it "may" be included in a future CDP. But 9 (b) if court declares a public ROW doesn't exist, it "shall" be removed as soon as practicable for om the published CDP.

In other words, if the court says no public ROW exists the council must remove it from their list ASAP but if the court says the public ROW does exist there is no obligation to add it at a later date. This does not represent fair process.

Solution: The Bill should treat both scenarios equally. Section 59(8)(b) should state:

"the planning authority shall, as soon as practicable thereafter, include the provision in the published development plan".

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Issue 3: Dilution of protection on public ROWs in objectives

There is a clear dilution of protection in the CDP objectives section of the Bill. Below I have compared the proposed new wording with the old, existing wording. The new Act would require the council to list each specific public right of way or else it would not benefit from the preservation objective in 51(2)(g). The old Act (P&D 2001) included a catch all, the word 'any', that ensured the preservation objective covered all public rights of way.

51(2)(g) "preserving a **specific** (emphasis added) public right of way, including a public right of way which give access to seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility."

The current P&D Act states:

Part IV 8. "Preserving **any** (emphasis added) existing public right of way, including, in particular, rights of way which give access to seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility."

Solution: The new Bill should mirror the existing legislation and preserve any existing public right of way. As such, 51(2)(g) should read:

"preserving any public right of way, including a public right of way which give access to seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility."

Issue 4.
It would be important that the relevant minister could intervene to establish rights of way to override local opposition.

END

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