

Minutes of Meeting of Planning & Emergency Services Strategic Policy Committee held on Wednesday 2nd December 2015 at 10.00a.m. in Cashel-Tipperary Municipal District Offices, Rosanna Road, Tipperary Town.

Present: In the Chair - Cllr. Denis Leahy
Councillors – John Carroll, David Dunne, Martin Browne.

Tom Gallahue.

In Attendance: Karl Cashen, Director of Services
Dave Carroll, Chief Fire Officer
Brian Beck, Senior Planner
Brian Clancy, Administrative Officer
Nuala O’Connell, Senior Executive Planner
Caroline Conway, Senior Executive Planner
Liz McGrath, Staff Officer

Vote of Sympathy: A vote of sympathy was extended to Seamus Coffey on the recent death of his son, Steven (R.I.P.). The meeting adjourned to say a silent prayer as a mark of respect.

1. Minutes of last meeting held on 27th May 2015

The minutes of the previous meeting were proposed by Cllr. D. Dunne, seconded by Cllr. J. Carroll and agreed.

Arising from the minutes Karl Cashen confirmed that the Section 26 Fire & Emergency Services Operations Plan was adopted by Tipperary Co. Council on the recommendation of the SPC. Dave Carroll confirmed that Tipperary has the second largest retained Fire Service in Ireland.

2. Update on Planning legislative changes

Caroline Conway, Acting Senior Executive Planner, gave a presentation on recent Planning legislative changes and replied to queries raised. The new legislation referred to is as follows and is summarised hereunder:

- Urban Regeneration & Housing Act 2015 & Planning and Development (Amendment)(No. 3) Regulations 2015
 - Vacant Site Levy
 - Development Contributions
 - Amendment of Part V re Housing Supply
- Lobbying Act 2015

- **Vacant Site Levy**
- **A Site Activation Mechanism**
- Bring underutilised vacant sites and buildings in urban areas into beneficial use,
- Ensure more sustainable urban development,
- Ensure an efficient return on investment in enabling infrastructure,
- **Construction 2020**
- Stimulate the construction sector
- **Fund**
- Provision of housing
- Regeneration in vicinity
- A site is defined as an area of land > 0.05 ha but does not include any structure that is a persons home.
- Vacant site in the case of a site consisting of zoned residential land if;
- The site is situated in an area where there is a need for housing
- The site is suitable for the provision of housing
- The site or the majority of the site is vacant or idle
- In the case of a site consisting of regeneration land;
- The site or the majority of the site is vacant or idle,
- The site being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing public infrastructure and facilities on the area or has adverse effects on the character of the area
- **Planning Authority to prepare a Vacant Site Register inc;**
- Folio reference
- Name and address of owner
- Description
- Map
- Market Value of site (unencumbered fee simple if sold on the open market)
- As may be prescribed
- The register must be available for inspection
- Including a site on the register;
- Identify vacant sites,
- Identify owner,
- Written notice to owner & 28 days for submissions,
- If site is vacant for 12 months preceding and continues to be vacant PA shall enter on register,
- Written notice to owner of entry (inc notification of charge from January 2018),
- Appeal to ABP within 28 days
- The charge is payable in arrears by the owner of a vacant site entered on the register;
- Payable on 1st January annually from 2018
- 2 months to pay or by instalment
- Simple contract debt
- Not payable if derelict site levy is payable, death or ownership change
- **Amount of levy:**

- 3% of the market value of the site;
- Where there is a loan on the site;
- > then MV – levy is 0%
- 75 – 99% of MV – levy is 0.75%
- 50 – 74% of MV – levy is 1.5%

- **Development Contributions**
- Where planning permission has been granted and includes for development contributions and where the basis for the determination of development contributions has changed and;
 - **commencement notice has not been lodged or**
 - Where the development comprises houses and one or more of those houses has not been sold;
- The PA shall apply that change to the conditions of the permission where to do so would reduce the amount of the contributions payable.
- Where a development comprises houses one or more of which has not been sold the PA shall apply the change in contributions only in respect of the unsold houses.

- **Part V Housing Supply**
- Address housing supply-related issues, facilitating increased activity in the housing construction sector, support delivery of Construction 2020 and Social Housing Strategy 2020,
- **Amendments aim to;**
- Enhance the economic viability of developments
- Maximise the opportunity for the delivery of social housing units
- Secure the principal of integrated mixed tenure developments
- Address weaknesses in aspects of the existing legislation
- **Implications for Housing Strategies**
- % of land to be provided for social and affordable housing reduced from 20% to 10%,
- Focus on delivering social housing,
- Direct transfer of completed social units to be a priority,
- Part V delivery options reduced to;
- Transfer of land subject to the planning application,
- Transfer of completed units on the land to the Local Authority.
- Transfer of completed social housing units on other land,
- Long term leasing,
- Combination of above
- Housing Strategies will need to be reviewed (consultation with approved housing bodies and have regard to relevant housing policies).
- **Implications for planning applications**
- Part V applies to 10 + houses,
- Developers to be made aware of Local Authorities requirements with respect to Part V at pre-planning stage,
- Valid planning application to include detailed proposals and calculations for complying with Part V,
- Part V agreement to be reached prior to lodging commencement notice,

- Where a commencement notice has not been lodged, the new Part V arrangements, with the consent of the developer and the Local Authority can be applied.
- **Regulation of Lobbying Act 2015**
- Commenced (with the exception of Part 4) on the 1st September 2015
- Transparency in terms of who is lobbying whom, issues raised, intended results etc.
- Part 1 (Planning) includes for relevant communications about the development or zoning of lands to a designated public official
- Other than excepted communications i.e. requested by Planning Authority
- Consultation in formal consultation process or making a submission on a planning application is not lobbying
- Personal residence excluded
- Nominated person – CEO, DOS and Elected Members
- <http://www.tipperarycoco.ie/your-council/regulation-lobbying-act-2015>

In reply to Cllr. Dunne Caroline Conway stated that environmental action groups can register as lobbyists. The vacant sites levy refers to land zoned as residential with the objective of regeneration where the land is serviced, it doesn't apply where a derelict sites levy has already been imposed. There is no reference in the legislation to NAMA owned land. Replying to Cllr. Browne Caroline Conway confirmed that a programme of work needs to be done in relation to the vacant sites levy by January 2017 with the focus on larger urban areas. In reply to Tom Gallahue it was clarified that where a new development contribution scheme is adopted to provide for reduced development levies compared to those where were in place under the previous development contribution scheme, the reduced development contributions under the newly adopted scheme shall have retrospective effect for existing planning permissions that have yet to be activated i.e. where commencement notices have not been lodged. In relation to the changes to Part V it is not possible at this stage to give a figure on the number of houses which will be acquired over the next 5 years as the Housing Strategy will have to be reviewed. The formula for calculation will remain the same but the 20% requirement has been reduced to 10%. The section of the legislation in relation to long term leasing hasn't been enacted as yet. Replying to Cllr. Leahy in relation to Council owned land in town centres it was clarified that under the new legislation the land must be zoned for regeneration. Brian Beck stated that Tipperary Co. Council has certain incentives available for developers under the Development Contribution Scheme and the Town Centre Strategy with a similar approach to the current derelict sites levy, the aim being to free up undeveloped land in the town centres.

3. Planning Policy Work Programme for 2016 – presentation by Nuala O'Connell, Senior Executive Planner

Nuala O'Connell, Senior Executive Planner gave a presentation on the Planning Policy Work Programme for 2016 and replied to queries raised. The presentation highlighted the following:

Key Work Areas – What we do and how do we do it

- Preparation of Statutory Development Plans and Local Areas Plans
- Preparation of Pubic Realm Plans / Master planning/ Town and Village Enhancement.

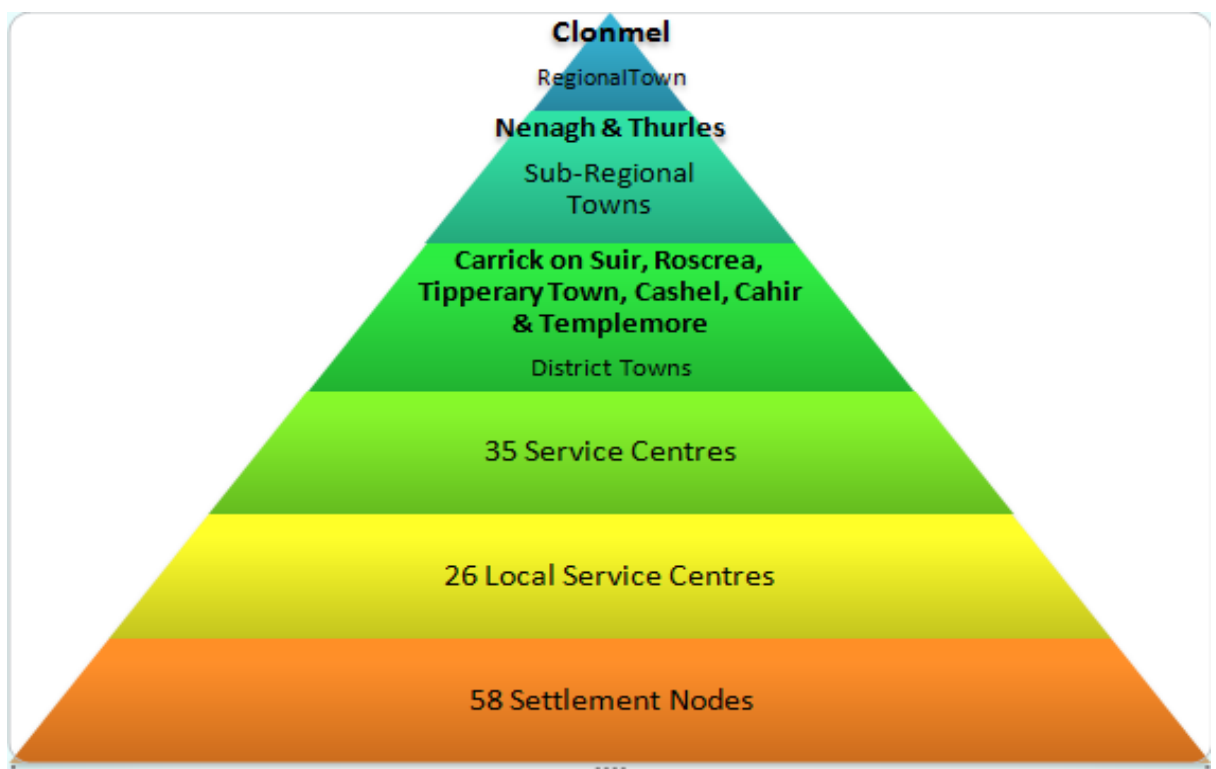
- Conservation and Heritage – Record of Protected Structures
- Monitoring and Review
- Submissions to the Department / Statutory Bodies
- Public Participation and Consultation.

- **Tipperary Co. Council Planning Policy**

- County Development Plan (2)
- Town Development Plans (7)
- Local Area Plans (3)
- Supporting Strategies
- Public Realm Plans
- Master Plans
- Village Enhancement Plans
- Conservation Management Plans

Steps to Harmonising County Development Plans

- County Development Plans (2) – Housing Strategy/Rural Design Guide
- Renewable Energy Strategy
- Settlement Plans
- Record of Protected Structures



Current Settlement Plans

- ‘Service Centres’
- ‘Local Service Centres’
- ‘Settlement Nodes’

Survey Work & New Village Plans

INPUTS

- Service Centre Analysis
- Infrastructure
- Zoning Analysis
- Public Consultation
- SEA and HDA

OUTPUTS

- Zoning Framework
- Recognition of Community Plans
- Identification of Deliverable Projects
- Cluster and Service Centre Guidelines

Public Realm Plans/Master Plans/Enhancement

- Municipal Districts and Planning Projects
- *Castle Street / Main Street Roscrea*
- *Sean Kelly Square & Westgate, Carrick on Suir*
Painting Schemes

Conservation

- Record of Protected Structures – 2500 buildings.
- Conservation Grants Schemes / Built Heritage Scheme
Town Wall Schemes

Public Consultation & Participation

- Information & Education

Conclusions: Key Priorities

- Participate in the preparation of the NSS and RPGs
- Finalisation of Variation No. 2 (CDPs)
- Finalisation of Variation No. 3 (Renewable Energy Strategy).
- Preparation of Variation No. 4 (Preparation of new Town and Village Plans)
- Commence the Review of the Record of Protected Structures
- To prepare Public Realm Improvement Plans and seek funding for same.
- Continue to improve methods of public participation and consultation.

Replying to Tom Gallahue Nuala O'Connell stated that zoning in relation to villages is being reviewed in order to promote the growth of the villages and to ensure there is a consistent approach to the zoning framework. New cluster guidelines will also be prepared to examine the types of houses that are needed. Development Impact Assessments will be required to

address what services (shops etc) are needed to serve the houses that are proposed to be built. The villages will be examined to identify gaps and to work in line with Local Community Development Plans supported by incentives. Tom Gallahue stated that tax incentives are required to encourage people to refurbish their property. VAT can be reclaimed in relation to the provision of PV panels and a painting scheme provided grants for certain streets in the larger towns of the county. Cllr. Leahy stated that such schemes should be expanded to offshoot streets from the town centre. Cllr. Browne stated that national policy needs to focus on enticing people to live in rural villages. Cllr. Carroll stated that with on-line shopping incentives such as those in place in Westport should be considered to encourage people to do business in towns. A person should be appointed to co-ordinate signage schemes and traffic schemes should not concentrate on traffic calming only but should display the history and character of the town (e.g. town walls scheme). Public consultation should be brought back to rural villages by the use of community centres equipped with broadband to encourage people to take the initiative themselves. Cllr Dunne agreed that clusters for rural villages is a good idea but this is difficult to reconcile with multiple stores already in place on the outskirts of the larger towns. Cllr. Leahy felt that the onus should be on government to maintain buildings such as closed Garda Stations and Courthouses for at least 5 years until new owners/service users can be found. Nuala O'Connell stated most of these buildings are protected structures and there is an onus on the owner to maintain them. In relation to rural housing the policy aims to facilitate people to build in their own area for one-offs provided they meet local need criteria.

4. Review of Taking in Charge Policy for Residential Developments

Brian Beck, Senior Planner gave a presentation to the meeting on the proposed Review of Taking in Charge Policy for Residential developments and replied to queries raised.

The presentation was intended as a briefing on the current status of Taking In Charge Policies within the County and to set out the options open to the Council. The briefing was strategic in nature, addressing issues at a County wide level. It was not intended to discuss any individual estate or ongoing work on TIC. The strategy presented was an attempt to ensure that a clear roadmap is put in place to prepare a TIC policy for the County as a whole.

The principal points were as follows:

What is a Housing Estate?

- **Planning and Development Act 2000 (as amended) Section 180(1)**
 - Where a development for which permission is granted under section 34 or under Part IV of the Act of 1963 includes the construction of **2 or more houses** and the provision of new roads, open spaces, car parks, sewers, water mains or service connections (within the meaning of the Water Services Act 2007), and the development has been completed to the satisfaction of the planning authority in accordance with the permission and any conditions to which the permission is subject, the authority shall, where requested by the person carrying out the development, or, subject to *subsection (3)*, by the majority of the owners of the houses involved, as soon as may be, initiate the procedures under section 11 of the Roads Act, 1993.

Procedure for taking in charge of estates

The taking in charge process is set out in the Planning and Development Acts 2000 – 2014 and Section 11 of the Roads Act 1993.

(1) Planning administration records the receipt of a taking in charge application, scans and files the correspondence and forwards it to the relevant technician for validation and map.

(2) Technician, Planning Section checks relevant planning reference, confirms number of houses, ensures developer or majority of owners (at least 51%) have signed the application form. Map is prepared outlining in red (excluding house sites) the portion of the estate to be considered for taking in charge.

(3) Planning administration acknowledges the request and advises the developer/residents' rep. whether the application is valid/invalid and advising of reasons if invalid.

(4) Planning Section forwards a copy of the request and map to Roads Section and Water Services for their information and confirm that Planning Section are processing same.

(5) Planning Section seeks report from the:

(i) Municipal District Engineer who will:

- check map to ensure it is accurate
- check number of lights listed, with number of lights on the ground, report to include assessment by Airtricity who are to be engaged to carry out survey and do full costing
- prepare full costing of road works outstanding

(ii) Water Services Engineer who will check map to ensure it is accurate and prepare costing of Water Services issues outstanding.

(iii) Planning Engineer/Technician on receipt of the Municipal District Engineer's report and Water Services report will prepare a report and recommendation which will include a full assessment of the estate with any outstanding issues including costings where necessary.

(6) Under the Memorandum of Understanding, the Planning Authority must notify Irish Water that the development has been completed to the satisfaction of the Planning Authority and that the Roads Authority intends to initiate the procedures under Section 11 of the Roads Act, 1993 unless Irish Water has any objection.

(7) If the development has been completed to the satisfaction of the planning authority and having consulted with Roads Section to ensure documentation is correct, a memo will be sent to Roads Section confirming same and requesting that they initiate the procedures under Section 11 of the Roads Act, 1993. The request will include the following:

- Detailed Planning Report including relevant Phase and house nos. and assessment of the financial implications with costings of taking the estate in charge.
- The completed documentation / forms.
- A completed Taking in Charge Register Sheet with all available data.
- Suitable maps for both public display and for the Taking in Charge Register. The maps must be sufficient so that any member of the public examining the register will be able to discern exactly what areas are in charge.

All MPRN and account numbers relating to public lighting AND/OR Water

(8) A notice is published in the local paper inviting submissions from interested parties on the proposal to take the estate in charge. A 6 week period is allowed for submissions.

(9) A report is prepared by the Roads Section and the taking in charge proposal is placed on the agenda of the next Council meeting.

- The process above can take many months or years to achieve, but it is necessary in order to ensure that when the Council takes an estate in charge where there is minimal financial exposure to the Council.

Taking in Charge Policy

- Circular Letter PD 1/08 was circulated to the members of the SPC
 - Issued by the Department on the 26 February 2008
 - Formed the basis of the current TIC policies
 - All planning authorities were required to develop or update, as appropriate, their policy on taking in charge by the end of June 2008 on the basis of the framework, and wider housing and planning policy guidance, as set out at the annex to this circular.
 - This work was carried out by both NTCC and STCC.

Framework for a Comprehensive Taking in Charge Policy

- The core principles underpinning the framework for taking in charge, which must be reflected in each authority policy on this matter, are:
 - A statement of the facilities that will be taken in charge and the maintenance services that will be provided;
 - The issue of taking in charge must be addressed at the pre-planning stage with the approved design facilitating the taking in charge of core facilities;
 - The PA's construction and design standards for residential areas will be set out;
 - Developers will be required, through the development management process /permission, to complete residential developments to a standard that is in compliance with the planning permission granted;
 - Planning authorities must take all necessary measures in this regard in particular through securing adequate bonds, inspection of construction and enforcement action when necessary;
 - The procedures for taking in charge will begin promptly on foot of a request by the majority of the home owners in the development or by the developer, as appropriate. Protocols, including time frames, must be set out by planning authorities to respond to requests for taking in charge;
 - Where there are core facilities in existing residential developments which were approved by the planning authority on the basis that they would remain private and be maintained by a management company, these must be taken in charge if the majority of owners request it;
 - Planning authorities must not attach management companies as a condition of planning in respect of traditional housing estates, save in very exceptional circumstances;
 - Planning authorities should only attach planning conditions requiring management arrangements in relation to certain shared facilities in the newer type of mixed residential development in limited circumstances;
 - In relation to older estates, priority must continue to be placed on resolving those estates that have been left unfinished /not taken in charge for the longest period.

Next Steps

- It is expected the new Ministerial Guidance on Taking in Charge will be published shortly.

- Planning Section will prepare a pre-draft TIC Policy for discussion at the next SPC meeting.

Following agreement at the SPC, the Draft TIC policy will be presented to full Council for adoption.

In response to Cllr Leahy Brian Beck stated that in relation to the planning and construction of new estates there will be a greater emphasis on working with the developer with estates being built and taken in charge in phases. Cllr Dunne agreed with this approach as legacy issues are still a problem in many estates. A majority of the owners are required to sign the request for taking in charge. Irish Water will have responsibility for ensuring that agreement is made with the developer for underground services who will oversee its construction. The Building Control Section of Tipperary Co. Council have trained 5 additional technicians to ensure that a greater number of inspections take place in respect of housing estates and commercial developments. Tom Gallahue welcomed the additional technicians and the phasing of construction and taking in charge and stated that in such cases the bond should be released or rolled over to the next phase as quickly as possible. Brian Beck stated that in future discussions would take place at pre planning consultation stage to agree and map out the phasing of proposed developments and release/roll over of the bond as required.

Cllr Leahy thanked the staff and members of the SPC for their presentations and contributions to the Meeting.

5. Date of next meeting

Dates for the first two meetings of the Planning & Emergency Services SPC for 2016 were agreed as follows:

- (i) Wednesday 2nd March 2016 at 10.00a.m.
- (ii) Wednesday 4th May 2016 at 10.00a.m.

both meetings to be held in the Cashel-Tipperary Municipal District Offices, Rosanna Road, Tipperary Town.

This concluded the business of the Meeting.