

**Minutes of Special Meeting of Kildare County Council  
Held at 11.45am on Thursday 5<sup>th</sup> November 2015  
At Sonas Bhride, Kildare Town, Co. Kildare**

**Members Present:** Councillor B.Weld (Mayor), Councillors A Breen A Breslin, F Brett, K Byrne, B Caldwell, R Cronin, W Crowley, I Cussen, M Dalton, S Doyle, T Durkan, D Fitzpatrick, B Hillis, I. Keatley, A Larkin, M Lynch, P McEvoy, J McGinley, F McLoughlin-Healy, M. Miley Jnr, T Murray, J Neville, N O'Cearuil, F. O'Loughlin, F O'Rourke, J Pender, R Power, S Power, D Scully, M Stafford, M Wall, P Ward and B Young

**Apologies:** Councillors D. Callaghan and S Moore

**Also Present:** Mr. P. Carey (Chief Executive), Mr. M. Kenny (A/Director of Services) Ms. Eileen Hanlon (Head of Finance), Mr. B. Weld (Mayor), Mr. K. Kavanagh (Meetings Administrator), Mr. G. Willoughby (Senior Executive Engineer), Ms. K. Keane (Administrative Officer) and Ms. P. Pender (Staff Officer).

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**Agenda: To consider the Chief Executive's Report on the submissions received on the Draft Development Contribution Scheme 2015-2022.**

The Mayor thanked the members for their attendance and set out the order of business of the meeting.

Chief Executive Peter Carey acknowledged the quality of the facilities made available to the Council at Solas Bhride and thanked the Brigidine Sisters for their hospitality.

Mr. Carey stated that the aims of the proposed Development Contribution Scheme are simplicity, clarity and equity. He confirmed the County requires a significant amount of enabling infrastructure and the Council has an ambitious Capital Programme to achieve this. Mr. Carey asked the members to bare this

in mind when considering the implications of the proposed Development Contribution Scheme.

Ken Kavanagh Meetings Administrator stated that the Draft Scheme provides for one countywide scheme following the amalgamation of the Town Councils with Kildare County Council and provides the necessary changes on foot of Irish Water and that it ensures compliance with Department Guidelines (ref. Circular PL1/2013). Mr. Kavanagh noted that the Development Contributions collected under the Scheme go to partly fund the Capital Programme and provide match funding for projects partially funded by Central Government.

Mr. Kavanagh explained that there were 29 original submissions received on foot of advertising the draft scheme and 12 supplementary submissions received after the circulation of the Chief Executives report making a total of 41 submissions to be considered at the meeting. The Mayor proposed to take the 4 submissions 'Agreed' by the Chief Executive submissions together first ie. submission No.s 14, 26, 28 and supplementary submission No. S3. He further proposed to consider the remaining submissions and supplementary submissions together under Group headings ie. Residential, Agriculture etc. All members were in agreement to this format.

Mr. Kavanagh then went through each of the submissions in turn.

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#### **Submission No. 14 – Bilfinger GVA on behalf of Tesco Ireland Ltd.**

Consideration should be given to the sharing of car parking spaces between uses e.g. where one use (a retail unit) only has demand for parking spaces during the day (9am to 5pm) and a restaurant in the same development only has demand for the spaces in the evening (6pm to midnight). In cases such as this, where it is not appropriate for the Development Plan standard to be met and where the sharing of parking spaces is feasible and appropriate; the requirement to pay a contribution charge should not apply.

#### **Chief Executives Recommendation**

This is currently the case. The County Development Plan operates maximum car parking standards. This allows a degree of flexibility and allows for developers to submit car parking analysis to demonstrate the demand for car parking spaces where they believe the application of car parking standards from the CDP are too onerous.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

#### **Submission No. 26 - IFA**

The IFA believes an exemption should be given for investment that must be legally undertaken to comply with the UE Nitrates Directive and other such agricultural, environment and animal welfare regulations.

### **Chief Executives Recommendation**

An exemption is provided for in the draft scheme - Section 12 n) refers which states "The following categories of agricultural development will be exempted from the requirement to pay development contributions under the Scheme, subject to the submission of appropriate documentary evidence from the Department of Agriculture

- All farm buildings and structures which are required to be constructed to comply with environmental protection regulations
- All farm buildings and structures which are required to be constructed to comply with National Action Programmes implemented under the EU Nitrates Directive (91/976/EEC)

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Submission No. 28 – Bilfinger GVA on behalf of Tesco Ireland Ltd.**

Clarify the meaning of advertising structures as contained in the statement at Section 8 (xii) of the Draft DCS which states "For advertising structures requiring planning permission, a development contribution of €32psm will apply" Concern is that this contribution could be misinterpreted and applied to the erection of new ancillary signage (fascia signage, totems, etc,) that is related to a proposed or existing use.

### **Chief Executives Recommendation**

The following statement will be included to clarify the meaning of advertising structures:

Advertising structures which are deemed ancillary to the structure (ie. fascia sign), such signs are exempt from development contributions.

Where advertising structures are not provided as part of an overall planning permission ie. not ancillary to the main development, then a separate planning permission is required and an appropriate levy will apply.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Supplementary No. Submission S3 – Cllr. Suzanne Doyle**

That levies for the conversion of commercial property, within town centres, to residential property be levy exempt in an effort to increase supply of residential within our town centres and bring commercial space to more sustainable levels

### **Chief Executive Recommendation**

Section 12 g) of the Draft Scheme refers. Kildare County Council will grant a 100% reduction in contribution charges where the development does not lead to the need for new or upgraded infrastructure.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Residential**

Submissions 5, 6 & 7 and supplementary submissions S1, S7 & S8 to be dealt with together.

### **Submission No. 5 – Cllr. Martin Miley**

That Kildare County Council apply 3 bands for determining development levies

Housing applications in settlement and rural area:

Under 2500sq feet - €40

Over 2500sq feet - €56

Housing applications in all other areas:

Under 2500sq feet - €56

Over 2500sq feet - €60

### **Submission No. 6 – IFA**

The new flat rate development contribution of €56 per sqm proposed in the draft plan ignores the fact that many rural dwellers do not avail of specific services such as water, waste water treatment and indeed may not have recreational services provided by the local authority in the area. The IFA proposes a reduced development levy for residential developments in rural areas.

### **Submission No. 7 – Sinn Fein**

Current proposed residential levies should be set in comparison to our nearest, most relevant neighbours in Dublin, Meath and Wicklow, where levies are significantly higher. While parts of Kildare are closer to Laois where levies may be lower it should be acknowledged the cast majority of future house building will take place to the East of the county. Propose that levies are €80 per sqm, including extensions

### **Supplementary submission No. S1 – Cllr. Suzanne Doyle**

That the levies scheme for this county have regard to the broad spectrum of house values in the County based on geography and that the levies scheme include recognition of this and be scaled accordingly in order that the burden be a consistent ratio of house value

### **Supplementary submission No. S7 – Fine Gael Group**

That residential development contributions be categorised into the following groups:

a. 40-120sqm at €45sqm

b. 120-250 sqm at €55sqm

c. Over 250sqm at €65 sqm

### **Supplementary submission No. S8 – Fine Gael Group**

That residential extensions over 40sqm be charged at €45sqm over 40sqm

### **Chief Executive Recommendation**

The Draft Scheme resolves anomalies and eliminates the application of lower sqm rates for larger developments. The proposal would reverse the benefit of a constant rate without significant increases at threshold levels.

The Scheme also seeks to eliminate multiple rates and create one uniform, equitable Countywide Scheme. The banding structures are deemed to be inequitable, a per sqm rate of €56 is equitable and gives potential applicants a clear view of the charges they will be liable for should planning permission be granted.

Mr. Kavanagh confirmed that under the current scheme, residential levies are capped at €12,241 regardless of the size of the unit.

Cllr. Lynch stated that there should be bands of residential rates to allow for lower, intermediate and higher brackets.

**Cllr. Fiona O'Loughlin submitted the following Motion to the meeting for consideration** That houses under 230sqm be subject to development contributions of €50psm, houses between 230 and 370sqm be subject to €56 per sqm and that houses larger than 370sqm be subject to €65psm

Cllr. O'Loughlin proposed the motion, Cllr. O'Cearuill seconded the motion.

Following brief discussion on Cllr. O'Loughlin's motion

**Cllr. Mark Wall submitted a further amending Motion to the meeting for consideration:**

Rate of €45 on unzoned land for house under 232 sqm

Cllr. Wall proposed the motion, Cllr. Breslin seconded the motion

Eileen Hanlon, Head of Finance, explained the financial consequences of reducing the rate to €45.00 per sqm. Ms. Hanlon stated that this effective 10% cut in the rate would lead to a significant reduction in the Capital Programme which would in turn lead to a significant impact on the services provided to all areas including rural areas. Mr. Carey reminded the meeting that the purpose of the Capital Programme was to enable infrastructure to bring services to rural areas and that this cannot be impinged on.

Cllr. O'Loughlin proposed a 5 minute adjournment to discuss both proposals received from the floor, Cllr. Keatley seconded the request and all members were in agreement.

Following the resumption of the meeting, the members decided to hold a roll call vote in respect of both motions. Councillor Wall's motion received 27 votes against and 6 in favour and consequently was rejected. Councillor O'Loughlin's motion received 30 votes in favour and 3 against and was carried.

**Resolved:** That houses up to 230sqm be subject to a €50psm contribution, houses between 231 and 370sqm be subject to a €56 per sqm contribution charge and houses in excess of 370 sqm be subject to a €65psm contribution charge.

Mr. Kavanagh clarified that the same residential rates would apply to extensions and that extensions less than 40sqm are exempt (as is the case at present).

### **Agriculture**

Submission No.s 1 & 3 and supplementary submissions S4 & S12 were then considered.

#### **Submission No. 1 – Cllr. Martin Miley**

Agriculture development €5 per square metre

#### **Submission No. 3 – Sinn Fein**

Agricultural levies should be €30 per sqm but only after 600sqm

#### **Supplementary submission No. S4 – Cllr. Suzanne Doyle**

That our agricultural levies be consistent with neighbouring counties recognising that outputs from the agri sector perform in a common market

#### **Supplementary submission No. S12 – Fine Gael Group**

That sections g, h and l (in the current scheme) exclude "miscellaneous development contribution" and apply a flat rate of €10sqm for developments that are not exempt from contributions. That exempted areas be calculated over more than one application.

Cllr. Miley stated the Council needs to support development in the agricultural sector, Cllr. Keatley agreed and confirmed that the Fine Gael group supported the €10psm rate as proposed by the Chief Executive.

Cllr. Lynch queried why the members would support a lower rate than the €15.99 average rate of our neighbouring counties.

#### **Cllr. Lynch proposed the following motion**

That KCC adopt a similar scheme to Meath Co. Co., including exemptions however adopt a rate of €15.99psm as an average rate in neighbouring counties.

Cllr. Miley proposed Cllr. Lynchs motion, Cllr. O'Rourke seconded it.

Cllr. Lynchs motion received 27 votes against and 6 in favour and consequently was rejected.

**Resolved that** a rate of €10 psm to apply to agricultural development with an exemption on the first 600sqm.

**Submission No. 2 – Cllr. Martin Miley**

Equine development €5 per square metre

**Chief Executive Recommendation**

A rate of €10psm to apply to equine development with an exemption on the first 600sqm.

**Resolved with** all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

**Submission No. 4 – Sinn Fein**

Horticulture levies should be €30 per sqm but only after 600sqm and no exceptions should apply to wholesalers of same as per draft

**Chief Executive Recommendation**

A rate of €5 per sqm is considered appropriate for this form of development with the first 600sqm of development being exempt from contributions. Polytunnels and glasshouses are exempt from the charge.

In relation to the request that wholesalers not receive exemptions, Section 12 (p) of the draft scheme states "The exemption in (i) and (ii) above will only apply to wholesale producers and any buildings/structures of land used for retail will be levied at the relevant rate for miscellaneous development"

**Cllr. Lynch submitted the following motion for consideration:**

That horticulture levies are similar to agriculture and are charged at a similar rate with the current exemptions

Cllr. Lynchs motion received 27 votes against, 6 in favour and consequently was rejected.

**Resolved with** all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

**Commercial**

Submission No.s 8, 9, 10, 11 and 12 were then considered.



**Submission No. 8 - Sinn Fein**

Commercial retail levies on large retail units over 3000sqm should be €100 per sqm

**Chief Executive Recommendation**

The rate proposed for commercial development in excess of 3,000 sqm at €61.55 per sqm is considered appropriate given the requirement to attract investment into the county whilst having regard to the requirement to ensure we avoid levying contributions that are excessively high as per the requirement of the Ministerial Guidelines issued in January 2013.

Cllr. Keatley sought confirmation on whether there was a different rate for commercial and retail contributions. Mr. Kavanagh confirmed the commercial rate is proposed at €61.55psm and the retail contribution at €65.16psm. Cllr. Lynch stated that it's out of town centres that are causing huge problems for town centres, Cllr. Young supported Cllr. Lynch's comments. Cllr. R Power stated that while the council is trying to support town centres, out of town centres wouldn't be successful if there wasn't a demand and that trebling the commercial rate for this type of development is not the way of addressing this.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 6 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

**Submission No. 9 – Sinn Fein**

A new commercial levy band should be introduced on large out of core town/village. Large commercial retail units and should be introduced at €200 per sqm

**Chief Executive Recommendation**

There is currently 3 bands proposed for commercial/retail development in the draft scheme and it is not the Councils intention to introduce further commercial levy bands at this time. However, a number of incentives are included in the draft scheme to incentivise commercial development for town centres.

Cllr. Lynch stated the Council need to do something to counteract the negative effect on town centres of large out of town centres. Cllr. Miley stated increasing the development contributions would be counterproductive to development and that the zoning of lands dictates how development proceeds, not the development contribution scheme.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 6 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.



### **Submission No. 10 – Sinn Fein**

Commercial levies on wind turbines should be €200,000 per mast if the mast is to generate electricity for profit and not under community ownership.

### **Chief Executive Recommendation**

A rate of €10,000 per megawatt of capacity is considered appropriate for this form of development, is in line with other counties and has regard to renewal energy policies as per the Ministerial Guidelines issued in January 2013. The guidelines also state that planning authorities distinguish between large and small scale development which a rate per megawatt will take account of.

Cllr. Lynch felt that a rate of €200,000 per mast is appropriate given the impact these masts have on the landscape and on residents living in their surrounds. Cllr. O'Loughlin called for a roll call vote on this submission but did not receive the required support from the members in this regard.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 6 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

### **Submission No. 11 – Sinn Fein**

Telephone masts levies should be increased to €50,000 per mast, considering their unsightly look and the nature of the high profit companies installing them.

### **Chief Executive Submission**

A rate of €10,000 is considered appropriate for this form of development. In an effort to reduce the visual impact on the environment of these structures, section 8 (x) a. allows a reduction of 10% where the planning authority is satisfied that the proposed structure is suitably camouflaged to mitigate its visual impact.

Note: The Department has also advised that there be a 100% reduction where commercial masts form part of the National Broadband Scheme.

Cllr. Lynch wished to confirm that he agreed with the 100% reduction where commercial masts form part of the National Broadband Scheme.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 6 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

### **Submission No. 12 – Sinn Fein**

That a special introduced levy is imposed on all concrete structures, specifically walls, which are not structurally critical to the building eg. €30 per sqf

### **Chief Executives Recommendation**

Concrete structures such as the walls referred to in this submission do not fall under the category of development for the purposes of the Development Contribution Scheme thus contributions would not apply.

Walls such as those referred to in the submission, will be assessed as part of the planning application process.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 6 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

### **Transportation**

Submissions No.s 13, 14, 15, 16 and 17 to be considered.

#### **Submission No. 13 - Bilfinger GVA on behalf of Tesco Ireland Ltd.**

Where adequate parking spaces are provided within a development and then removed by way of a planning condition, any requirement to pay a contribution charge for the omitted spaces should not apply.

#### **Chief Executive Recommendation**

The draft scheme proposes that the contribution for the car parking shortfall be set at a uniform €5,000 per space (thereby replacing the current schemes with rates ranging from €4,500 - €6,000 per space). Car parking requirements on a planning application are dealt with on a case by case basis and is dependent on development type and location. The decision to apply a levy in lieu of car parking provision must also be dealt with on a case by case basis.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

#### **Submission No. 15 – John Spain Associates on behalf of Aldi Stores (Ireland) Ltd**

In relation to the supplementary contribution of €5,000 per shortfall in car parking spaces as detailed in Section 8 of the Draft Scheme and having regard to the fact that the parking standards as set out in the the Kildare County Development Plan are clearly maximum standards, that an exemption is included within the contribution scheme which states that such a contribution will not apply to development on town centre zoned sites.

#### **Chief Executive Recommendation**

The County Development Plan operates maximum car parking standards. This allows a degree of flexibility and allows for developers to submit a car parking analysis to demonstrate the demand for car parking spaces where they believe the application of car parking standards from the CDP are too onerous. Analysis of car parking is taken on a case by case basis depending on development type, location, proximity to public transport etc. all of which is taken into account. It would not be appropriate to apply a blanket exemption on town centre zoned sites. There is scope within the car parking standards as set out to consider the requirements of each site. The use of "maximum" standards does allow for flexibility in accepting reduced levels of parking and/or levies.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

**Submission No. 16 - John Spain Associates on behalf of Aldi Stores (Ireland) Ltd**

In relation to sites within and directly adjacent to traditional town centres, the provision of parking in accordance with maximum standards as set out in the Kildare County Development Plan is not an option in many instances. Standards contained in the County Plan are maximum standards. A deviation from maximum standards does not represent a shortfall.

**Chief Executive Recommendation**

The County Development Plan operates maximum car parking standards. This allows a degree of flexibility and allows for developers to submit a car parking analysis to demonstrate the demand for car parking spaces where they believe the application of car parking standards from the CDP are onerous. Analysis of car parking is taken on a case by case basis depending on development type, location, proximity to public transport etc. all of which is taken into account. It would not be appropriate to apply a blanket exemption on town centre zoned sites. There is scope within the car parking standards as set out to consider the requirements of each site.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

**Submission No. 17 - John Spain Associates on behalf of Aldi Stores (Ireland) Ltd**

It is requested that under Section 12 of the Scheme "Exemptions and Reduced Contributions" the following exemption is noted:

"The Contribution for shortfall in car parking spaces shall not apply where developments are proposed on town centre zoned lands".

**Chief Executive Recommendation**

The County Development Plan operates maximum car parking standards. This allows a degree of flexibility and allows for developers to submit a car parking analysis to demonstrate the demand for car parking spaces where they believe the application of car parking standards from the CDP are too onerous. Analysis of car parking is taken on a case by case basis depending on development type, location, proximity to public transport etc. all of which is taken into account. It would not be appropriate to apply a blanket exemption on town centre zoned sites. There is scope within the car parking standards as set out to consider the requirements of each site.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Exemptions/Exemption Clarifications/Reductions**

Submission No.s 18, 19, 20, 21, 22, 23, 24, 25 and 26 were then considered.

#### **Submission No. 18 – Sinn Fein**

No exemption for: Fee Paying Schools, Private Hospitals, 3rd Level institutions and that persons in receipt of a Disability Grant be exempt where the extension is relevant to their disability.

#### **Chief Executive Recommendation**

Exemptions from development contributions are as contained in Section 12 of the Draft Scheme

This section states development contributions may be reduced by up to 100% in the following cases (a-e) where a fee has not been payable when making such an application in accordance with Article 157 of the Planning and Development Regulations 2001 as amended

Schools

Section 12 a) iv. states educational facilities, to include schools build under a PPP process will be exempt from development contribution charges. However, special contributions may be applied to any such planning permission in accordance with Section 48(2)(c)

No exemptions are contained in the Scheme relating to private hospitals however a 3rd Level Institution would be considered an education facility and would be exempt from development contributions as per section 12 a)

Applications in respect of a Housing Adaptation Grant (formerly ERG/DPG) are exempt from payment of development contributions.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

#### **Submission No. 19 – Sinn Fein**

Levies should be zero rated on core village/town centres where at the Chief Executive discretion, it can be demonstrated that a retail/commercial entity made large efforts to consolidate several existing smaller separate premises and consolidated them into one large town/village centre unit. This should not include sites or knocked buildings

#### **Chief Executive Recommendation**

A number of incentives are included in the Scheme in this regard

- Section 12 g) of the draft scheme re. Change of Use provides for 100% reduction in contribution charges where the development does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure.

- Section 12 h) of the draft scheme outlines a reduction of 33% in development contributions in relation to development within Town Centres as designated in

plans as outlined. Where development requires work to a protected structure, a further 25% reduction will be allowed.

- Section 12 k) of the draft scheme deals with Redevelopment Projects and where permission is granted for the redevelopment of a project which includes replacing existing development, the relevant contribution charge will be applied to the additional floor area only ie. residential (using the extension rates), commercial, retail etc.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 4 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

#### **Submission No. 20 – Sinn Fein**

No commercial levies should be charged on wind turbines and other renewable energy installations generating less than 0.5MW once it is not for profit unless under community ownership

#### **Chief Executive Recommendation**

Section 12 m) of the Scheme proposes a 50% reduction in respect of renewable energy development which is not supplying electricity to the National Grid and which is in line with the Ministerial Guidelines issued in 2013. Full exemptions are proposed for domestic wind turbines meeting the criteria outlined in the draft scheme.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

#### **Submission No. 21 – Sinn Fein**

Any start up or indigenous SME involved in the technology sector, as approved by the Chief Executive, should have no development levy charge in order to attract them to the county

#### **Chief Executive Recommendation**

Exemptions relating to small enterprises/start-up business are contained in section 12 l) of the draft Scheme which states "Exemptions/reduction will be considered on a case by case basis for enterprises being grant aided by LEO (Local Enterprise Office). Kildare County Council will grant a reduction in the contribution associated with the development to match that of the grant aid provided". This applies to all sectors and not just the technology sector alone eg. 50% grant aid would be matched by 50% reduction in development contribution.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 4 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

#### **Submission No. 22 – Sinn Fein**

Developers of both single and multiple units should be given discounted development rates (80%) to build high quality buildings within town and village centres.

### **Chief Executive Recommendation**

Exemptions relating to development in town centres are contained within Sections h) Town Centres, 12 i) Protected structures in Town Centres and 12 j) relating to 'Over shop' Space in the draft scheme.

- Section 12 h) of the draft scheme outlines a reduction of 33% in development contributions in relation to development within Town Centres as designated in plans as outlined
- Section 12 i) of the draft scheme outlines a 50% waiver will be granted in respect of works on protected structures in Town Centres identified at 12 h).
- Section 12 j) of the draft scheme allows a 50% reduction in development contributions charges for the residential element of the development.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 4 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

### **Submission No. 23 – Sinn Fein**

Building levy within a town/village should be reduced to counter higher cost to build high spec developments ie. Quality stone facades around all the building should be a must and will initially cost more, but create a building which will hold its value and look well into the future.

### **Chief Executive Recommendation**

Issues relating to design and boundary treatment are matters for consideration at planning assessment and condition stage.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 4 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

### **Submission No. 24 – Sinn Fein**

Commercial town or village centre levies should be reduced to zero on commercial premises, not involved in retail, within core town and village centres. This should be done to keep our towns and villages alive with sustainable jobs and investment coming directly to town centres.

### **Chief Executive Recommendation**

A number of incentives are included in the Scheme in this regard:

- Section 12 g) of the draft scheme re. Change of Use provides for 100% reduction in contribution charges where the development does not lead to the

need for new or upgraded infrastructure/services or significant or significant intensification of demand placed on existing infrastructure.

- Section 12 h) of the draft scheme outlines a reduction of 33% in development contributions in relation to development within Town Centres as designated in plans outlined

- Section 12 j) of the draft scheme is to promote the use of existin/proposed space over shop/retail and allows a 50% reduction in development contributions charges for the residential element of the development.

- Section 12 k) of the draft scheme deals with Redevelopment Projects and where permission is granted for the redevelopment of a project which includes replacing existing development, the relevant contribution charge will be applied to the additional floor area only ie. residential (using the extension rates), commercial, retail etc.

**Resolved** with 27 members voting in favour of accepting the Chief Executives recommendation and 4 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

#### **Submission No. 25 - IFA**

In the IFA's view, the classification of the pig and poultry sector as intensive or semi intensive for planning purposes is incorrect. This classification comes from environmental and no planning legislation and merely reflects a scale of enterprise at which certain environmental actions must take place, such as the preparation of an IPPC license. The IFA proposes that buildings for the pig and poultry sectors should be given the same exemption as other agricultural buildings on the farm

#### **Chief Executive Recommendation**

Section 12 n) of the draft scheme states Agricultural exemptions will not apply to intensive development of a semi-agricultural/commercial nature such as intensive poultry or pig production.

However if the applicant comes within the following categories, an exemption will apply

- All farm buildings and structures which are required to be constructed to comply with environmental protection regulations

- All farm buildings and structures which are required to be constructed to comply with National Action Programmes implemented under the EU Nitrates Directive (91/976/EEC)

For clarity, where an exemption does not apply, the draft scheme will be amended to allow the same terms as agricultural enterprises.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.



### **Submission No. 26 - IFA**

The IFA believes an exemption should be given for investment that must be legally undertaken to comply with the UE Nitrates Directive and other such agricultural, environment and animal welfare regulations.

### **Chief Executives Recommendation**

An exemption is provided for in the draft scheme - Section 12 n) refers which states "The following categories of agricultural development will be exempted from the requirement to pay development contributions under the Scheme, subject to the submission of appropriate documentary evidence from the Department of Agriculture

- All farm buildings and structures which are required to be constructed to comply with environmental protection regulations
- All farm buildings and structures which are required to be constructed to comply with National Action Programmes implemented under the EU Nitrates Directive (91/976/EEC)

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Modifications/Change of Use**

#### **Submission No. 27 – Bilfinger GVA on behalf of Tesco Ireland Ltd.**

Concern that in its current form, contributions for both modifications and change of use are open to interpretation and development contributions could be charged if it is the view of the Planning Officer that "the development will need for new or upgraded infrastructure" Request the Planning Authority to re-consider the wording of these provisions and amend the text that relates to both changes of use and modifications, to the following "Permission for a change of use from one commercial use to another are exempt and any net additional floor space will be charged at the appropriate rate"

### **Chief Executive Recommendation**

There are two different elements to this submission.

Modifications - The intention of section 9 a) is that where additional floor area is proposed that it will be subject to the development contribution scheme on the date permission is granted. It is clear from the scheme that any proposed development is exempt if there is no increase in floor area.

Change of use - The Ministerial Guidelines issued in 2013 state that where the development does not lead to the need for new or updrated infrastructure, services or significant intensification of demand placed on exisging infrastructure, a 100% reduction on development contributions will apply. This is provided for in the draft scheme.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

**Submission No. 29 - Bilfinger GVA on behalf of Tesco Ireland Ltd.**

As an advertising structure does not require or benefit from the use of infrastructure that is covered as part of the Draft DCS ie. roads, recreation and amenity, surface water and community. On that basis, we would request that the planning authority reconsider the application of this contribution to advertising structures and amend this sub-section of the scheme accordingly.

**Chief Executive Recommendation**

It is considered appropriate that Development Contributions of €32psm apply to advertising structures that require a separate planning permission.

Where advertising structures are not provided as part of an overall planning permission ie. not ancillary to the main development, then a separate planning permission is required and an appropriate levy will apply.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

**Supplementary submission No. S9 – Fine Gael Group**

That a reduction will be applied in respect of a one-off house where the property does not abut a public road but rather the entrance is on a private road or a road that is not in charge of the local authority.

**Chief Executive Recommendation**

The proposed Development Contribution Scheme is designed to address infrastructural deficits and advance provision for new development in the county of Kildare. Such projects vary from road construction and improvements to amenities such as libraries, playgrounds etc.

The motion as proposed would introduce an inherent, inequitable and inconsistent approach to contributions for houses in rural and urban areas. It is also worth noting estate roads are private until Taken in Charge and rural roads are connected to public roads at some point.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

The meeting then considered the remaining supplementary motions.

**Submission No. S2 – Cllr. Suzanne Doyle**

That the levies scheme investigate the possibility of including another heading for the provision of funding for the building control and supervision section, in order that we can achieve an improved level of oversight in building standards

### **Chief Executive Recommendation**

Development contributions can only be used for Capital purposes. The motion as requested is outside the scope of Section 48 of the Planning and Development Act 2000 (as amended) as development contributions charged and collected are specific to the provision of infrastructure set out in the Capital Programme.

Current Residential % allocation is:

Roads	47.5%
Surface Water	11.5%
Recreation & Amenity	34.5%
Community	6.5%

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Submission No. S5 – Cllr. Moore**

That Kildare County Council members agree to give a far more serious consideration of the direct need for Community Lands for Sports and Leisure in the major towns of Kildare by raising the percentage take in those pressurised Municipal Districts for the period of this new DCS, for Amenity and Community Development to a much higher level of proportionality with other futuristic service expenditures

### **Chief Executive Recommendation**

The apportionment of contributions relates to the requirements set out in the capital programme, currently it is 34.5% for recreation and amenity, 6.5% for community.

The % allocation for recreation & amenity and community elements are considered reasonable and are ringfenced to the MD in which the development is carried out. Any change to the allocation will require a review of the Capital Programme.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Submission No. S6 – Cllr. Moore**

That Kildare County Council members agree to assist, Kildare Only, first time buyers of houses from newly built development schemes by awarding a FTB grant, equal in amount to The Development Contribution paid over to KCC for that house from the date of the adopted scheme until 31.12.2017.

### **Chief Executive Recommendation**

A grant scheme as proposed is not relevant to the Development Contribution Scheme, this is a budgeting issue and outside the scope of Section 48 of the Planning and Development Act 2000 (as amended).

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

### **Submission No. S10 – Fine Gael Group**

That an exemption comprised in Clause 12 (d) would be extended to include replacement dwellings where the original dwelling is no longer suitable for habitation and the use is converted to storage or agricultural and the replacement dwelling is on adjoining lands.

### **Chief Executive Recommendation**

Section 12 d) proposes that contributions will not apply for replacement buildings on the same footprint as the original building following extensive accidental damage in the instance of subsidence, fire or flood. A report from a qualified professional must also be submitted confirming extensive accidental damage is due to subsidence, fire or flood. In the instance that the floor area of such a replacement building exceeds the floor area of the original building, development contributions shall be payable.

Aside from the definition of "no longer suitable for habitation" in the submission not being clear, the motion proposed would also contravene RH19 of the County Development Plan which is to facilitate the sensitive replacement of a structurally unsound derelict dwelling as an alternative to the construction of a one off dwelling elsewhere in the countryside.

Cllr. Stafford stated that scenarios where the replacement house would be proposed on adjoining lands would only be a small number. Mr. Kenny confirmed that this would be considered a "new home" and allowing such a policy would open the Council up for potentially large numbers of these type of applications.

**Resolved** with 30 members voting in favour of accepting the Chief Executives recommendation and 2 voting against, the Chief Executives Recommendation without amendment and as stated in the report was agreed.

### **Submission No. S11 – Fine Gael Group**

That Clause 14.a be amended to read "contributions for all development to be payable within 12 months of the submission of the commencement notice or upon submission of the certificate of completion whichever is the shortest.

### **Chief Executive Recommendation**

Payment terms are a matter for the Head of Finance

The current payment arrangement of 50% on commencement and the second 50% within 12 months of commencement is satisfactory and ensures that payment is received at a time when finances are available. This was introduced into the 2011 Scheme to address the anomaly within the 2004 Scheme which saw no specific time limit placed on customers to pay their contributions. Inevitably, houses were completed and occupied without any payment of contribution charges. Any move away from this payment arrangement would completely undermine the collection rates for Kildare County Council.

\* It is proposed that the provision for the indexation adjustment included in section 13 of the draft scheme be removed.

Cllr. Miley stated that there are a lot of families struggling to make payments and that the Council should take this into consideration when assessing payment plans and asked that they be considered sympathetically. Mr. Carey stated this would be considered in exceptional circumstances.

Ms. Hanlon confirmed payment arrangements as outlined are required to ensure the necessary income is generated to support the Capital Programme.

**Resolved** with all members present in agreement, to accept the Chief Executives Recommendation without amendment and as stated in the report.

In conclusion, on the proposal of Cllr. Kennedy seconded by Cllr. Hillis, the Members agreed to adopt the Chief Executive Report with the amendments as resolved at the meeting.

Mr. Kavanagh declared that pursuant of the provisions of Section 48 of the Planning & Development Act 2000-2015 and following consideration of the Draft Scheme prepared pursuant to the said Section 48 and the report of the Chief Executive prepared under subsection 6 of said Section 48 and having regard to any recommendations made by the Minister and other submissions received, the County Council of the County of Kildare resolved on the 5<sup>th</sup> November 2015 to modify the Development Contribution Scheme as recommended by the Chief Executive to make a Development Contribution Scheme as follows:

- a) The revised contributions set down in the 2015-2022 Development Contribution Scheme supersede the existing Development Contribution Scheme adopted in September 2011. As of the date of adoption of this revised Development Contribution Scheme, the Schemes adopted in September 2011 shall continue to be payable in respect of planning permissions granted prior to the coming into force of this Scheme.
- b) The contributions applicable to the 2011 Scheme adopted in September 2011 shall continue to be payable in respect of planning permissions granted prior to the coming into force of this Scheme.

The meeting concluded.

