

Minutes of the November Monthly Meeting of Clare County Council held in the Council Chamber, Áras Contae an Chláir, New Road, Ennis, Co. Clare and via MS Teams on Monday, 8th November, 2021 at 3:45 p.m.

Present:

Councillors M. Howard, M. Nestor, C. Colleran Molloy, P. Murphy, A. Norton, P. Daly, J. Cooney, A. O’Callaghan, T. O’Brien, J. Crowe, M. Begley, P.J. Ryan, P. McMahon, G. Flynn, D. McGettigan, P. O’Gorman, S. Talty, J. Killeen, L. Grant, P.J. Kelly, B. Chambers, G. Keating, C. Murphy, I. Lynch.

Present via MS Teams:

Councillors J. Flynn, P. Hayes, P. Burke, J. Garrihy.

- Mr. Pat Dowling, Chief Executive.
- Ms. Ann Reynolds, Meetings Administrator.
- Ms. Margaret O’Rourke, Assistant Staff Officer.
- Ms. Anne Haugh, Director of Social Development.
- Mr. Leonard Cleary, Director of Rural Development.
- Ms. Noeleen Fitzgerald, Director of Finance and Support Services.
- Mr. Liam Conneally, Director of Economic Development.
- Ms. Helen Quinn, A/Senior Planner, Economic Development.
- Mr. Cyril Feeney, Senior Engineer, Physical Development.

Apologies:

Dr. Carmel Kirby, Director of Physical Development.

The Cathaoirleach, Cllr. P.J. Ryan presided.

Vote of sympathy.

A vote of sympathy was extended to the following:

- The Maher family, Duagh, Co. Kerry on the death of Eileen Maher, Duagh, Co. Kerry.
- The Conway family Moyadda and the Clancy family Renappa, Lissycasey on the death of Margaret Conway.
- The Maguire family, Ennistymon on the death of Laurie Maguire.
- The Fitzgerald family on the death of Des Fitzgerald.
- The Kenneally family, Tarbert on the death of Brendan Kenneally.
- The O’Looney family, Lahinch on the death of MD O’Looney.

- The O’Carroll family, Newmarket on Fergus on the death of Canon Caimin O’Carroll.
- The Bogue family Ballymaquiggan, Ennis on the death of Pat Bogue.
- The Byrnes family Killaloe on the death of John Byrnes.

Congratulations.

Congratulations were extended to the following:

- Éire Óg GAA Club on winning the Clare Senior Football final.
- Smith O’Briens GAA Club on winning the Clare Intermediate Hurling final
- Corofin GAA Club on winning the Clare Intermediate Football final.

Cllr. T. O’Brien extended thanks to the staff of Clare County Council who were always available to assist since the onset of the Covid 19 pandemic. Cllr. O’Brien commended the workers and felt it was important to recognize and thank them for their time, effort and co-operation.

Item 1: Minutes of Council Meetings.

- a. Ar moladh Cllr. J. Crowe
Cuidithe ag Cllr. J. Cooney agus glacadh leis

“That the Minutes of the October Meeting of Clare County Council held on 11th October, 2021 be adopted and signed.”

Item 2: Matters Arising.

There were no matters arising.

Item 3: Minutes of Municipal District Meetings.

- a. Ar moladh Cllr. C. Colleran Molloy
Cuidithe ag Cllr. P. Daly agus glacadh leis

“That the Minutes of the Ennis Municipal District Meeting held on the 5th October, 2021 be noted.”

- b. Ar moladh Cllr. C. Colleran Molloy
Cuidithe ag Cllr. P. Daly agus glacadh leis

“That the Minutes of the Ennis Municipal District Special Meeting held on the 14th October, 2021 be noted.”

Item 4: Minutes of the Corporate Policy Group Meetings.

The members noted the minutes of the meeting held on 4th October, 2021 as presented.

Item 5: Monthly Management Report.

The monthly management report attached to the agenda included key activities in the principal service areas and was noted by the members.

Cllr. C. Murphy referred to recent EPA report and noted that the timeline for delivering WWTP in Kilkee has now been extended to mid 2025. Cllr. C. Murphy requested that pressure be applied to get this infrastructure delivered before this date as the original completion date was 2023.

P. Dowling, Chief Executive thanked the members for their comments in relation to staff co-operation during the Covid-19 pandemic and undertook to pass these comments on to staff. Mr. Dowling welcomed the members back to the Council Chamber after a lengthy absence.

In relation to the WWTP in Kilkee, Mr. Dowling undertook to engage with Irish Water to achieve targets set.

Item 6: Disposal of property at Keelty, Beechpark, Ennis, Co. Clare pursuant to Section 183 of the Local Government Act, 2001 and Section 211 of the Planning & Development Act, 2000.

Report dated 7th October, 2021 from Carmel Greene, Senior Executive Officer, Economic Development Directorate was circulated with the agenda together with map. The report states that it is proposed to dispose of an area of lands measuring 0.19 hectares at Keelty, Beechpark, Ennis, Co. Clare subject to the conditions as set out in the notice served on the members dated 7th October, 2021.

Ar moladh Cllr. P. Daly
Cuidithe ag Cllr. C. Colleran Molloy agus glacadh leis

“Notice having been served pursuant to Section 183 of the Local Government Act, 2001, Clare County Council approves pursuant to the powers vested on it at Section 211 of the Planning & Development Act, 2000 as amended, of disposal of lands at Keelty, Beechpark, Ennis, Co. Clare subject to the conditions as set out in the notice served on the members dated 7th October, 2021.”

Item 7: Disposal of property at Keelty, Beechpark, Ennis, Co. Clare pursuant to Section 183 of the Local Government Act, 2001 and Section 211 of the Planning & Development Act, 2000.

Report dated 8th October, 2021 from Carmel Greene, Senior Executive Officer, Economic Development Directorate was circulated with the agenda together with map. The report states that it is proposed to dispose of an area of lands measuring 0.466 hectares at Keelty, Beechpark, Ennis, Co. Clare subject to the conditions as set out in the notice served on the members dated 8th October, 2021.

Ar moladh Cllr. C. Colleran Molloy
Cuidithe ag Cllr. P. Daly agus glacadh leis

“Notice having been served pursuant to Section 183 of the Local Government Act, 2001, Clare County Council approves pursuant to the powers vested on it at Section 211 of the Planning & Development Act, 2000 as amended, of disposal of lands at Keelty, Beechpark, Ennis, Co. Clare subject to the conditions as set out in the notice served on the members dated 8th October, 2021.”

Item 8: Report in accordance with Part XI, Section 179 of the Planning and Development Act 2000, as amended, and Part VIII, Article 80 and 81 of the Planning & Development Regulations 2001-2013 for the proposed public realm improvement works on O’Connell Street, Ennis, Co. Clare.

Report dated 2nd November, 2021 from Leonore O’Neill, Senior Executive Officer, Ennis Municipal District was circulated with the agenda together with report from Helen Quinn, A/Senior Planner. The report outlines details of proposed public realm improvement works on O’Connell Street, Ennis, Co. Clare.

Ar moladh Cllr. C. Colleran Molloy
Cuidithe ag Cllr. P. Daly agus glacadh leis

“That pursuant to Part XI Section 179 of the Planning and Development Act 2000 (as amended) and Part VIII Article 80 and 81 of the Planning and Development Regulations 2001-2013 Clare County Council proceed with the proposed public realm improvement works on O’Connell Street, Ennis, Co. Clare.”

Item 9: Clare PPN Replacement Nomination on Physical Development S.P.C.

Report dated 27th October, 2021 from Sarah Clancy, Clare PPN Co-ordinator on behalf of Clare PPN was circulated with the agenda. The report states that due to the resignation of James Giller, Clare PPN would like to nominate Theresa O’Donohoe as one of the Environmental Representatives on Clare County Council’s Strategic Policy Committee for Physical Development. Clare PPN has conducted a call for nominations and election as per their mandated processes and Theresa O’Donohoe was selected.

This was approved having been proposed by Cllr. J. Crowe, seconded by Cllr. D. McGettigan and agreed by the members present.

Item 10: Report in accordance with the Planning and Development (Amendment) Act 2021 and Section 11D of the Planning and Development Act 2000, as amended, to extend the duration of the existing Clare County Development Plan 2017-2023 (as varied).

Report from Pat Dowling, Chief Executive was circulated with the agenda. The report is issued to the elected members for their consideration. Its purpose is to report on the outcome of the statutory consultation process, as prescribed in the Planning and Development (Amendment) Act 2021 and Section 11 D of the Planning and

Development Act 2000, as amended, to extend the duration of the existing Clare County Development Plan 2017-2023 (as varied).

The report continues that the extension of duration of the existing Clare County Development Plan 2017-2023 (as varied) is necessary in order to ensure it remains in operation until such time as the new Clare County Development Plan comes into effect. The extension of duration will provide for a further period of time, of up to 7 months, to be accommodated to complete the review of the Clare County Development Plan 2017-2023 (as varied) and to prepare and make a new Clare County Development Plan for the functional area of Clare County Council.

In accordance with legislation, this report lists the persons or bodies who made submissions or observations, provides a summary of the issues raised in the submissions or observations made in relation to the proposal to extend the duration of the existing Clare County Development Plan 2017-2023 (as varied), and sets out my response to the issues raised.

This report is herein submitted to you, the elected members of Clare County Council, in accordance with the requirements of the Planning and Development (Amendment) Act 2021 and Section 11D of the Planning and Development Act 2000, as amended, for the members consideration.

Ar moladh Cllr. J. Cooney
Cuidithe ag Cllr. C. Murphy agus glacadh leis

“That following consideration by the Elected Members of:

- a) The Description of Proposed Extension of Duration of the Clare County Development Plan 2017-2023 (as Varied), dated October 2021;
- b) The associated Screening for Appropriate Assessment Report and Strategic Environmental Assessment-Screening Report, dated October 2021;
- c) The Chief Executives Report on the Proposed Extension of Duration of the Clare County Development Plan 2017-2023 (as Varied), dated 2nd November 2021;

therefore, in accordance with the Planning and Development (Amendment) Act 2021 and Section 11(D) of the Planning and Development Act, 2000 (as amended) this Council hereby resolves to extend the duration of the existing Clare County Development Plan 2017-2023 (as varied) up to the 29th April 2023.”

Item 11. Population allocations in County Development Plan.

Ar moladh Cllr. P.J. Kelly
Cuidithe ag Cllr. J. Killeen agus glacadh leis

“That legal advice be provided on the legality/constitutionality of proposed population allocations in County Development Plans.”

Liam Conneally, Director of Economic Development replied as follows:

“The Planning and Development (Amendment) Act 2010 introduced the requirement for a Core Strategy to be prepared as part of all County Development Plans. The purpose of the Core Strategy is to articulate a medium to longer term quantitatively based strategy for the spatial development of the County and in so doing to

demonstrate that the Plan and its objectives are consistent with national and regional development objectives set out in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES).

Circular Letter FPS 02/2018, required that in accordance with Section 2 of the Planning and Development Act 2000 (as amended) and all other related provisions of the Act, including, in particular, Sections 9, 10, 22A, 23, 37A and 143, the NPF replaced the National Spatial Strategy (NSS) and represents the overarching national planning policy document of direct relevance to the planning functions of regional and planning authorities, including An Bord Pleanála.

Circular FPS06/2018 National Planning Framework issued in July 2018 clarified that the adoption date of the National Planning Framework was the 29th May 2018.

Circular FPS04/2018 entitled 'Implementation Roadmap for the National Planning Framework' was issued in July 2018 and set out population targets for County Clare.

The adoption by Government of the National Planning Framework and the Southern Regional Assembly the RSES means that these are statutory national and regional growth strategies which include detailed population targets based on 2016 Census data. The National Planning Framework prescribes population growth targets for each Region and City within the State and the RSES further analyses and sets out, in turn, the future population target for each County and City.

As set out in Section 10(2A) of The Planning and Development Act, as amended, the Core Strategy shall provide relevant information to demonstrate that each Development Plan and the Housing Strategy is consistent with the NPF, RSES and with specific planning policy requirements specified in Section 28 Guidelines.

Section 28 (1) of the Planning and Development Act 2000, as amended sets out that the Minister may at any time issue guidelines to Planning Authorities regarding any of their functions under this Act and Planning Authorities shall have regard to those guidelines in the performance of their functions.

In this regard Guidance has been produced on how Core Strategies are prepared and this is set out under the following:

- Guidance note on Core Strategies November 2010
- Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities December 2020
- Development Plans Guidelines for Planning Authorities Draft for Consultation August 2021

In summary, I am satisfied that the Core Strategy as included in the Pre-Draft Clare County Development Plan has had regard to all statutory requirements and in that regard is legally compliant.

This response has been collated following consultation with the County Solicitor who has advised that it is difficult to see how a quantitative based strategy for the spatial development of the County could be argued to be unconstitutional in a general sense.”

Cllr. P.J. Kelly expressed concern in relation to the inability to find a solution to address the problems facing rural and urban Clare. Cllr. Kelly stated that he felt that the population allocation is discriminatory and voiced disappointment that no legal response was available. Cllr. Kelly requested that full legal opinion be sought from the County Solicitor to address the issues facing the people of County Clare and felt

that a combined input will develop a solution beneficial for the people of Clare. Cllr. Kelly outlined discussion which took place at a recent AILG conference in relation to the planning related matters.

In supporting Cllr. P.J. Kelly the elected members acknowledged that the projected population increase has already been set and felt that there is promotion of population and employment in urban areas and the projection for the remainder of the county is very low. It was felt that this will cause difficulties for planners as the numbers are not sufficient to allow development in rural parishes and diminished numbers will lead to a loss of essential services such as schools, banks, post offices as well as GAA teams and community activities. The members agreed that the County Development Plan must be fair for all communities within the county and must ensure that houses are delivered in a balanced way. The members agreed that all options must be explored to solve this as otherwise it will be difficult to support the County Development Plan. The elected members queried if there is consistency in national laws and European laws if constitutionality and legality of applications were tested and also questioned if there are legal challenges that could be raised by the Council and Chief Executive.

P. Dowling, Chief Executive addressed the meeting and assured the members that the Council executive shares the concerns expressed in relation to population projections which were signed off by Government. Mr. Dowling stated that the future of rural Ireland rests with Government policy and that local authorities are required to implement policy while adhering to legislation. Mr. Dowling informed the meeting that local authorities have a statutory duty to agree their County Development Plans. Mr. Dowling agreed that the population figures are from the census taken pre-covid 19 and stated that Clare County Council has to be pragmatic and realistic and should look at what can be achieved for rural Clare as regards population going forward and conclude the County Development Plan within the statutory timeframe and not breach timelines. Mr. Dowling stated that he will discuss this issue with the Councils law agent and will revert to the members accordingly. Mr. Dowling felt there is merit in engaging with Oireachtas Members in order to voice their concerns at national level.

The elected members agreed that the Clare County Development Plan should be produced as the members wish to produce it, being mindful of the concept of how best to develop towns and villages on behalf of the people of Clare.

Item 12. County Development Plan.

Ar moladh Cllr. C. Colleran Molloy

Cuidithe ag Cllrs. M. Begley agus M. Howard agus glacadh leis

“That legal opinion be obtained to assist Members of Clare County Council in the formulation and adoption of the County Development Plan, specifically:-

- (i) Does the holding in McEvoy v. Meath County Council requiring local authorities “to have regard to” planning guidelines allow local authorities to depart from planning guidelines for *bona fide* reasons consistent with proper planning and sustainable development of the area for which the planning authority has planning responsibilities;
- (ii) Does this McEvoy case and any subsequent applicable case law provide sound legal basis to permit Members of Clare County Council to deviate from the guidelines for bona fide reasons consistent with proper planning and sustainable development, where such bona fide reasons may include, but not be limited to, the publication year of the guidelines and their obsolescence in application to current conditions, and discernible Covid19 pandemic population flow shifts from urban centres to counties such as County Clare;
- (iii) Given that the prescribed methodology contained in Section 4.3 page 51 of the “Development Plans Guidelines for Planning Authorities” states that “Accordingly, the development plan must set out a clear housing supply target for the relevant six-year (i.e. quarter to quarter) plan consistent with the prescribed methodology in the relevant issued guidelines”, was established pre Covid19 pandemic, can the Members of Clare County Council deviate in good faith and for bona fide reasons as are currently demonstrated by the urban to rural population flows post Covid19 Pandemic?”

Liam Conneally, Director of Economic Development replied as follows:

“I wish to advise the members that this response was prepared in consultation with the County Solicitor.

In order to address the specific questions raised I have set out my response below directly underneath each element of the question.

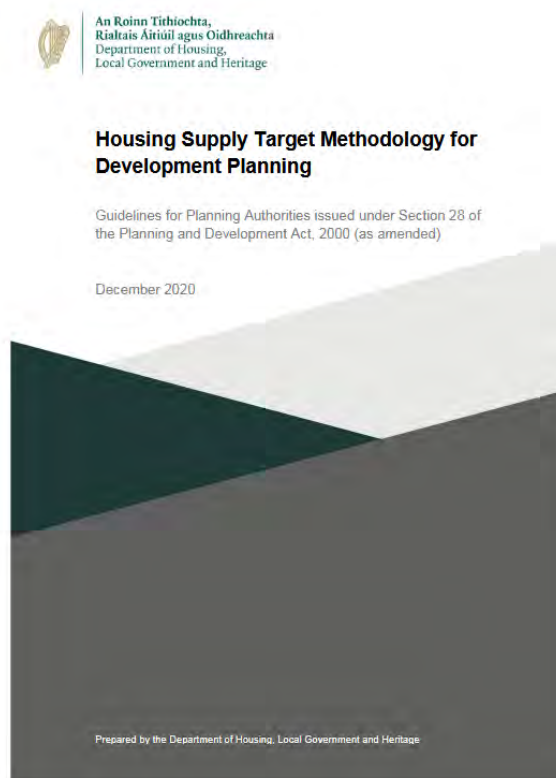
1. *Does the holding in McEvoy v. Meath County Council requiring local authorities “to have regard to” planning guidelines allow local authorities to depart from planning guidelines for bona fide reasons consistent with proper planning and sustainable development of the area for which the planning authority has planning responsibilities.*

It is the Planning and Development Act 2000 as amended that requires local authorities to have regard to planning guidelines. *McEvoy v. Meath County Council* 2002 interpreted Section 27 of the Planning & Development Act, 2000, as amended, as meaning that the planning authority did not have to slavishly follow guidelines, but could depart from them where they had *bona fide* reasons consistent with the planning and sustainable development of the area justifying their doing so. The finding of *McEvoy v. Meath County Council* has been superseded by statutory developments since 2002, to the extent that the duty ‘to have regard to’ has effectively been replaced by more restrictive measures.

2. *Does this McEvoy case and any subsequent applicable case law provide sound legal basis to permit members of Clare County Council to deviate from the guidelines for bona fide reasons consistent with proper planning and sustainable development, where such bona fide reasons may include, but not be limited to, the publication year of the guideline and their obsolescence in application to current conditions, and discernible Covid 19 pandemic population flow shifts from urban centres to counties such as County Clare?*

Section 28 (1C) of the Planning and Development Act 2000 as amended (inserted in the Planning and Development (Amendment) Act 2018 (“the 2018 Act”) provides that, without prejudice to the generality of Sub-section (1) (i.e. the requirement for the planning authority to have regard to the guidelines), guidelines issued under S28 may contain specific planning policy requirements with which planning authorities “*shall, in the performance of their functions, comply*”. This Sub-section creates a category of guidelines which have the effect of a direction rather than a guideline. Such guidelines are not covered by the *McEvoy* case, which predates this statutory requirement. These guidelines require a planning authority to comply with them, rather than to have regard to them.

For example the Housing Supply Target Methodology for Development Planning guidelines issued in December 2020 are issued pursuant to Section 28 and do trigger the mandatory compliance provisions contained in Section 21(1C) of the of the Planning and development Act 2000 as amended.



Paragraph 2.12 of the said document states as follows:

“As part of the development plan process, planning authorities must demonstrate the manner in which their core strategy and other elements of the plan are consistent with the established NPF Roadmap population projections for their local authority area and accordingly, with the related NPF 50:50 City housing demand projection scenario identified by the ERSI. While it is recognised that certain planning authorities may have advanced through the statutory process, including publication of a draft plan, it will be necessary to demonstrate general consistency with the NPF and ESRI NPF housing demand scenario, including at Chief Executives Report and at Material Alterations stages, subject to the methodology set out in Section 4.0 of these guidelines below, and within the parameters of potential adjustment to 2026”.

In the terms of Section 28(1C), this is a “*specific planning policy requirement*” with which a planning authority shall comply in the performance of its function. It does not allow for the exception contained subsection 28(1B)(b) ,that the planning authority may form the opinion that it is not possible because of the nature and characteristics of the area to implement the policy and to provide reasons for forming this opinion as to why the policies and objectives of the Minister have not been so implemented. This policy constitutes a directive in the form of a guideline with which the planning authority has a statutory duty to comply.

3. *Given that the prescribed methodology contained in Section 4.3 page 51 of the “Development Plans Guidelines for Planning Authorities” states that “Accordingly, the development plan must set out a clear housing supply target for the relevant six-year (i.e. quarter to quarter) plan consistent with the prescribed methodology in the relevant issued guidelines”, was established pre Covid 19 pandemic, can the Members of Clare County Council deviate in good faith and for bona fide reasons as are currently demonstrated by the urban to rural population flows post Covid-19 Pandemic?*

The above paragraph cannot be taken in isolation of the planning authority’s statutory requirements as outlined above. The statutory framework does not permit a planning authority to exercise discretion in compliance with this document for *bona fide* reasons nor does it permit a planning authority to form the opinion that it cannot comply with the policy requirements and to furnish the minister with a written statement of the reasons why it cannot so comply. The purpose of Section 28 (1C) is to direct compliance with the policy document and the statutory framework and does not provide for an exception for any reason.

I hope that my response addresses the queries put forward by the elected members.”

The following amendment was submitted by Cllr. C. Colleran Molloy and was read by Ann Reynolds, Meetings Administrator.

“(iv) That the County Solicitor review the High Court judgment of Friday November 5th, 2021, delivered by Mr. Justice Humphreys, in favour of Cork County Council, wherein he held that the guidelines in question were not mandatory but that the Councillors’ duty in relation to them was to "have regard to them, not to comply with them" and advise if this approach is available to us as Councillors in the development of the CDP?”

Cllr. C. Colleran Molloy stated that she felt the reply provided was insufficient as she had asked for legal opinion and had received indirect advice on the constitutional

basis of population allocations set in the National Planning Framework. Cllr. Colleran Molloy requested that the legal opinion be provided on headed paper and signed by the County Solicitor.

In supporting the notice of motion the elected members felt that the planning guidelines and the National Planning Framework should be revised when circumstances change. The members supported the idea of producing a County Development Plan for the people of Clare and address subsequent issues if raised by the Planning Regulator. The members felt that clarity is needed in relation to the Councils obligation in planning matters due to population allocations.

P. Dowling, Chief Executive informed the members that everybody wants what is right for County Clare but there are restrictions that Clare County Council is obliged to comply with. Mr. Dowling stated that there are several counties with similar concerns. Mr. Dowling informed the members that there is an ambitious progressive plan in place for Clare which is the focus at the present time. Mr. Dowling noted that High Court and European Court proceedings incur costs and undertook to engage with the Oireachtas Members.

Item 13. Examination of strategies.

Ar moladh Cllr. J. Garrihy
Cuidithe ag Cllr. C. Murphy agus glacadh leis

“In context of the potential negative impact on rural areas, small towns and villages and settlements from RESS/NPF and directives from OPR as is currently evolving through the Clare County Development Plan 2022-2028 that a renewed focus and examination of strategies in the control of Clare County Council and its partners is carried out. I suggest the concentration should be to mitigate damage to sustainability and success of our Rural T&V, small business and the permanent and living communities and as stated in Our Rural Future "To discriminate favourably" towards our rural communities ensuring their success and sustainability into the future.”

Liam Conneally, Director of Economic Development replied as follows:

“I wish to assure the elected members that the Council’s executive is fully committed to exploring all avenues to support rural communities across our county. The upcoming Draft Clare County Development Plan will include many positive objectives which will support and enable our rural communities to thrive. The draft Development Plan will also support the delivery of infrastructure necessary for our rural communities and rural towns and villages to prosper. The Draft Development Plan will also support the many other strategies (rural, tourism, mobility, etc.) that have been prepared across the Council’s Directorates and through the planning process we will continue to support the aspirations/objectives of those strategies during the lifetime of the new Plan.”

Cllr. J. Garrihy stated that he believes Clare County Council should reassess its own resources and focus on strategies under its control, as the implementation of these strategies will send a positive signal and encourage investment in rural towns and villages. Cllr. Garrihy stated that he is looking forward to the Cliffs of Moher Strategy and felt that a focus should be on the footfall going through towns and villages in north Clare and that government funding should be applied in order to

signal that places are going to be successful places for economic success and sustainable into the future.

In supporting Cllr. J. Garrihy the elected members agreed that displacement of communities cannot be tolerated and that rural Clare needs to be marketed in a positive manner and that positivity should be supported by action. The members felt there is a window of opportunity as people are looking to live in rural locations and that properties should be regenerated to encourage businesses into rural areas. The members felt that landowners should engage in the County Development Plan process in order to avoid zoning land that will not be made available for development.

Item 14. County Library services.

Ar moladh Cllr. I. Lynch

Cuidithe ag Cllr. A. Norton agus glacadh leis

“In keeping with the council's excellent work providing inclusive services for all, I request that Clare County Council introduce banded times to the County Library services allocating times for users whom have additional sensory and communication needs, I would further request that a review is undertaken of other services provided by the council to see if allocated times can help improve user experience.”

Helen Walsh, County Librarian replied as follows:

“The library service will commence 1 hour slots on both Tuesday and Thursdays banded as an

“**Accessible hour**” in each full time branch commencing on 1st December. This is from 11.30-12.30pm on these mornings. These times have been chosen as they are quieter times for library usage. During this time children/adults with additional individual needs are encouraged to visit the library to avail of library services. Parents with children on the autism spectrum and those children who require introductory information on what a visit to the library consists of should view our social stories on the **Clare library website, www.clarelibrary.ie** for the individual branch they wish to visit – see example



▸ [Ennistymon Library's Social Story](#)

These social stories have been prepared with **all** in mind not just those on the autism spectrum. This should allay any fear or anxiety of coming into the library space and inform clients of what to expect from a library visit. There may on occasion be other activities happening in branches during these times e.g. a class visit but this should not detract from the use of the library during the “accessible hour”.

In addition, all full time branches hold small sensory toy collections which can be asked for and used while in the library – due to covid restrictions these collections are temporarily suspended. Presently – the library service is applying for grant aid to place a “Cubbie” – a sensory hub for those diagnosed with ASD, DCD, ADHD and anxiety in 2 libraries (the new Ennis library and Shannon branches). These hubs when functioning will provide a safe space for people of all ages with varying disorders and will work to advance the promotion of mental health.”

Ann Reynolds, Senior Executive Officer, Corporate Services replied as follows:

“Each Directorate will review their customer facing services to explore further opportunities to increase accessibility for service users who have additional communication or sensory needs.”

Compliments were paid to the library service by the elected members who felt that understanding and awareness is the key to inclusiveness. The members welcomed the sensory element initiative and the allocation of times as “Accessible hours” in each full time branch library. The members felt that consultation within Clare County Council has improved and is open to ideas and willing to provide extra supports.

Item 15. Swimming classes.

Ar moladh Cllr. P. Murphy
Cuidithe ag Cllr. G. Flynn agus glacadh leis

“As the country continues to open up and group activities, both indoors and outdoors are resuming, I am proposing that swimming classes for the public are re-opened, as a matter of urgency, in order to,

- i) conclude existing class terms that commenced already.
- ii) promote swimming as an important form of exercise, for all age groups.

Support for this notice of motion will also provide much needed revenue for Clare County Council, but far more importantly it will continue to provide a steady stream of trained swimmers, many of whom qualify as lifeguards that subsequently go on to patrol our Blue flag beaches and lakes making them safer places for the wider public.”

Anne Haugh, Director of Social Development replied as follows:

“Active Ennis Leisure Centre is returning to ‘normal’ operations as COVID restrictions ease and revised SOG’s are issued by the LGMA. It is hoped to recommence with swimming lessons at the facility as soon as the contractor can be re-engaged.”

The elected members agreed on the positive impact swimming classes provide in order to teach children to swim and continue their training as well as enabling people to train as lifeguards. The members asked when will the swimming lessons resume and requested that the revised guidelines be circulated to them.

Anne Haugh, Director of Social Development addressed the meeting and informed the members that the swimming club will resume shortly and that the resumption of lessons is at an advanced stage as the contractor is returning.

Item 16. Upgrade IT and communications equipment in Council Chamber.

Ar moladh Cllr. J. Flynn
Cuidithe ag Cllr. C. Murphy agus glacadh leis

“In light of the ongoing Covid-19 situation that the Information Technology and Communications equipment in the Council Chamber be upgraded to enable a “new

normal” or hybrid method of holding statutory, Municipal District and S.P.C. committee meetings in the Chamber now and into the future.”

Noleen Fitzgerald, Director of Finance and Support Services replied as follows:

“It is accepted that an upgrade of the existing information technology in the Council Chamber is required to facilitate efficient hybrid meetings. A temporary arrangement has been put in place to integrate audio with MS Teams which will facilitate hybrid meetings in the short-term. Work is ongoing to procure an upgraded and fully integrated audio/visual system for the Council Chamber and the upgrade will be scheduled in the coming months.”

Cllr. J. Flynn welcomed the facilities provided so that this Council meeting could be accessed both in the Council Chamber and remotely. Cllr. J. Flynn felt that as a county remote working, technology and the ability for people to engage in the democratic process has been embraced.

Item 17. Hedge Cutting Policy.

Ar moladh Cllr. G. Flynn
Cuidithe ag Cllr. J. Cooney agus glacadh leis

“I am calling for a review of the Hedge Cutting Policy in view of the failure by some land owners to meet their obligations under Section 70 of the Roads Act. The public are entitled to use public roads that are properly maintained and are not a health and safety risk. The land owners that observe the regulations are to be commended but unfortunately a number of land owners show little regard to their obligations and I am calling on the local authority to strengthen the policy and their efforts in making sure all roads are safer for the public and properly maintained.”

John Leahy, Senior Engineer, Physical Development replied as follows:

“Clare County Council’s Hedgecutting policy is set against the background that local authorities have an overseeing role and responsibility to ensure that public roads are free of obstruction and impediment including the requirement that overgrown trees, verges, hedgerows etc. do not interfere in any way with the effective and safe operation of the public road network.

Under Section 70 of the Roads Act 1993, landowners are responsible for trees, hedgerows etc. on or inside their boundaries adjacent to public roads. The Act obliges landowners and occupiers to take all reasonable care to ensure that such trees, hedges and other vegetation are not or could not become a danger to people using or working on a public road.

Section 40 of the Wildlife Act, 1976 as amended by Section 46 of the Wildlife (Amendment) Act 2000 restricts the cutting of hedges during the growing season i.e. between March 1st and August 31st each year. Therefore, unless such hedgecutting has to be carried out during this period to facilitate public health and safety, all works of this nature should be implemented between September 1st and the end of February. Hedgecutting notices are served on landowners that are not engaging with the Local Authority.

The Council's hedgecutting policy can be reviewed with the Municipal Districts as requested. Notwithstanding the foregoing, it should be noted that the Council does provide a budget on an annual basis to facilitate hedgecutting along the most strategically important routes across the county. The extent to which the Council can fulfil this role is governed by the budget at its disposal. A provision of €5,000 has been provided in the 2021 Schedule of Municipal District Works to facilitate hedgecutting by the Council where deemed appropriate. The Council can cut roadside edges where there is a risk to public safety and do not require authorisation from the Department of Transport."

Cllr. G. Flynn called for a review of hedge cutting policy as members of the public are entitled to use public roads without health and safety risks. Cllr. Flynn felt that some landowners show little regard to their obligations and believed that responsibility for keeping roads safe should not be left to landowners as there is an obligation on local authorities to ensure that roads are accessible.

The elected members agreed that the hedge cutting policy has to be strengthened as some landowners are not engaging with local authorities or carrying out their duties. It was noted that some land owners are maintaining their hedges and that local engineers are endeavouring to keep this under control. The elected members noted that there is a short time for hedgecutting and felt that all hedges on roadsides should be cut at least once a year. The members suggested that local authorities would cut hedges and invoice the landowners who fail to comply with their hedgecutting duties. It was also suggested that local authorities engage with the IFA as farmers are receiving payment for hedgecutting.

Item 18. Clare County "Fire & Emergency Operations Plan.

Ar moladh Cllr. L. Grant

Cuidithe ag Cllrs. J. Flynn, I. Lynch, C. Murphy, D. McGettigan, J. Garrihy agus S. Talty agus glacadh leis

"Call on Clare County Council to urgently review and update the Clare County "Fire & Emergency Operations Plan 2014-2019" in accordance with S26 Fire Services Act. Many retained fire stations around the country are struggling to stay up and running. The council should put together a report as to what can be done internally to ensure all stations in County Clare remain operational. The council should include in this report a comparison of the retained fire service in County Cork and whether a similar strategy could be implemented here. The objective of the review and report would be to continue the important work of Clare Fire and Rescue Service (which is in place to protect life, property and respond to civic emergencies in Clare) in order that now and into the future Clare is not left with an understaffed and inexperienced fire service."

Adrian Kelly, Chief Fire Officer replied as follows:

"Clare County Council's current "Fire & Emergency Operations Plan" was adopted at the 2014 April Council Meeting. The 2014 Plan considered the 2013 government policy "Keeping Communities Safe" which remains the current guidance on fire services delivery in Ireland.

The Plan adopted in 2014 was for a 5-year period, with the expectation that there would be further changes to government policy on the fire service at a national level

within the lifetime of the plan, that would then form part of the next review of the plan. At the December 2018 Physical Development Strategic Policy Committee, Chief Fire Officer Adrian Kelly provided an update on the current Plan, and indicated specific items for consideration for the next Plan, including:

- **Fire Station Upgrade Programme**
 - Development of Ennis Fire Station
- **Retention & Recruitment of Operational Personnel**
 - Outcome of National Review of the Retained Fire Service
 - EU Court of Justice – 2018 Matzak Ruling which determined that in the case of a Belgian Firefighter, his stand-by period must be considered as working time in its entirety, including inactive stand-by time during which no actual services are being provided – what implication, if any, this ruling has for the Irish Fire Service
- **Health & Safety**
 - Proposed to go to ISO 45001:2018 accreditation
- **Fire Prevention**
 - Government Policy “Fire Safety in Ireland”

As there were no changes to government policy within the period, and there was no update on either “National Review” or the “Matzak Ruling”, both of which potentially have a significant bearing on service delivery of the Fire Services in Ireland, it was agreed to postpone the review of the Fire & Emergency Operations Plan until a later date to allow for the completion of those matters. In the interim, the Fire Station Upgrade Programme and the achieving of the ISO 45001:2018 Health and Safety Standard were progressed.

As it is expected that both the “National Review” and the “Matzak Ruling” will reach conclusion in the near future, it is intended that the Fire & Operations Plan will be reviewed and brought to the Strategic Policy Committee for their attention with a view to adopting a new Plan in 2022.

Although a significant number of firefighters enjoy a long career in the Service, the nature of the Retained Fire Service nationally is that there is a constant throughput of people, particularly in recent years. Reasons for personnel leaving have included, moving to other employment, retirement, personal/family circumstances or the restrictions of the on-call availability of the role.

Currently in Clare we have 75 Retained Firefighters positions across 7 Stations. At this time there are 6 vacancies across the county, 4 of which have arisen since September. These vacant posts have been advertised and interviews are scheduled.

In September this year, the Management Board of the National Directorate for Fire and Emergency Management has approved the undertaking of a review of the model of local authority ‘retained’ fire services delivery, with particular emphasis on the recruitment and retention of staff. Clare County Council are taking part in this review, along with all other Fire Authorities, and will implement any such recommendations that emerge from this review.”

The elected members commended the work being done by Clare Fire Service and noted that the profile has changed over the years as the service being provided has expanded. The members expressed concerns in relation to the retention of fire fighters as the role can be challenging due to on call times and can impact on family life. The members welcomed the national review and felt that Clare County Council

should strive to improve the role of fire fighters as it is a phenomenal resource to have in keeping communities safe.

P. Dowling, Chief Executive reminded the members that Clare Fire and Rescue Service is not in a state of crisis and supported the management reserved function in relation to recruitment and carrying out the national review.

Adrian Kelly, Chief Fire Officer addressed the meeting and provided details of fire personnel in the county. Mr. Kelly informed the meeting that all fire fighters are trained to full time fire fighter standard and that every fire fighter is committed to their duties and their communities. Mr. Kelly gave an outline of the process involved in the review of the Fire & Emergency Operations Plan and undertook to raise this issue at the next Physical Development S.P.C. meeting.

Item 19. Greenway projects.

Ar moladh Cllr. L. Grant

Cuidithe ag Cllr. P. Murphy agus glacadh leis

"I wish to have a progress report on the greenway projects for Clare. What is the timeline for the Kilrush to Kilkee and Ennis to Ennistymon phases? When does the council envision actual construction on either phase to begin and what can I and other councillors do to assist?"

Seán Lenihan, Senior Engineer, Physical Development replied as follows:

“Members will be aware of the Councils longstanding objective to provide a world class Greenway in Clare notionally along the route of the old West Clare Railway from Ennis to Kilkee. The length of the railway line is 85km approx. but the scheme will extend to approx. 120km when linkages to towns and villages along the proposed route are included. Given the scale and complexity of the proposed scheme, the optimum means of delivering it is in 4 no sections, namely Kilrush to Kilkee, Ennis to Ennistymon, Ennistymon to Miltown Malbay and Miltown Malbay to Moyasta.

With reference to Section 1, Kilrush to Kilkee, the position is as follows. Following significant work by Council staff in terms of data gathering and a feasibility study, funding was secured under the Carbon Tax Fund which enabled us to seek tenders for the appointment of Consultants to initiate the design and planning stage. Roughan O’Donovan were duly appointed in July 2021 and work is progressing well with the first round of Public Consultation completed in September 2021. This included the display of all possible route options at Kilrush and Kilkee Libraries as well as in Council HQ and on the Council website where we invited suggestions and comments from affected landowners and interested parties. The feedback was mainly positive and is currently being used to inform the route selection following which, we will carry out a further Public Consultation in December/January which will include 4 or 5 possible route options and the emerging preferred route. Again, based on feedback from that round of engagement, the design will be further developed with a view to submitting a Planning application to An Bord Pleanála in mid-2022. Assuming timely consents, no legal challenge and the availability of the necessary funding, the detailed design, land acquisition and tender competition will follow immediately thereafter. All going well, it would be hoped that we could commence construction on site in late 2023 with the works expected to take 18 months for completion. With reference to Section 2, Ennis to Ennistymon, the current position is as follows. Following

discussion with the Department, we are currently running a tender competition for the appointment of Consultants to progress that section to Planning and Design stage. The closing date for receipt of tenders is early November, following which tenders will be assessed. Award of this commission will depend on allocation of the necessary funding required and we are currently in discussion with Department of Transport and T.I.I. in this regard.

The success of this project is dependent on meaningful engagement and a partnership and collaborative approach and any assistance the Members can provide in terms of communicating the many benefits and the early identification of any concerns or issues that the public or affected landowners may have would be appreciated. As always, we are available and happy to discuss and respond in this regard.”

The elected members welcomed progress and the ongoing negotiations on the greenway projects in County Clare and also welcomed the potential benefits the greenway will bring to the county.

Item 20. Dental Treatment Services.

Ar moladh Cllr. D. McGettigan
Cuidithe ag Cllr. A. Norton agus glacadh leis

“That this Council will call on the Minister for Health to intervene and engage with dentists in Clare to prevent a total collapse of the Dental Treatment Services Scheme (DTSS) and to ensure funding is available to boost public dentistry in Clare in the coming year.

In Clare there has been a reduction of 46% investment in the DTSS between 2017 and 2021 according to the Irish Dentistry Association.

We are also seeing a reduction of dentists signed up to the DTSS scheme resulting in only 16 dentists enrolled in Clare, leaving many Clare patients unable to access dentist care within this County.

Lack of access to timely dental care and delaying necessary treatment is economically unviable as what begins as a routine procedure can lead to far more costly and complex intervention being required.

The people of Clare need to see this issue resolved.”

The elected members agreed that the Dental Treatment Services Scheme needs urgent investment as people are waiting too long for dental treatment. The members stated that they receive numerous representations from people who cannot access dental services and who do not have the resources to access private dental care. The members also felt that early intervention in providing orthodontic treatment is essential and that these services should be more affordable.

Cllr. A. O’Callaghan proposed that the time to finish the meeting be extended in order to deal with the outstanding items. This was seconded by Cllr. P. O’Gorman and agreed by the members present.

Item 21. Contraflow traffic system on N18/M18.

Ar moladh Cllr. P.J. Ryan
Cuidithe ag Cllr. A. O'Callaghan agus glacadh leis

“That this council requests the Transport Infrastructure Ireland (TII) would examine the possibility of installing opening gates on sections of the center median of the N18/M18 to facilitate a contraflow traffic system for when there is an accident or blockage on this road.”

John Leahy, Senior Engineer, Physical Development replied as follows:

“We understand that there are crossover points at some limited locations on the N18/M18 to facilitate a contraflow traffic system at present. We will request that the Transport Infrastructure Ireland (TII) representatives and MmARC operators of the N18/M18 review the current arrangements in relation to the operation of contraflow systems on the N18/M18.”

The elected members spoke about the impact of diversions recently when the M18 and N18 were closed due to road traffic accidents. The members stated that traffic was diverted onto routes which were unsuitable for the volume of traffic involved which caused delays and congestion in villages in Clare.

John Leahy informed the members that Clare County Council have contacted TII representatives on the MmARC contract and Clare County Councils Roads and Transportation Section and Fire Services Section will engage with them further in relation to this.

Item 22. Hedgecutting.

Ar moladh Cllr. P. McMahon
Cuidithe ag Cllr. J. Killeen agus glacadh leis

“That this Council call on the relevant Minister and Department to ease regulation regarding Hedgecutting to allow Council further discretion to cut hedges that pose a threat to public safety.”

The elected members felt that the regulations could be eased in relation to times for hedgecutting as damage can be caused to birds and vegetation during the current hedgecutting season. The members agreed that an awareness campaign should be launched to make people aware of their responsibilities in relation to hedgecutting.

Item 23. Comhfhreagras/Correspondence.

- Cllr. S. Talty requested an update in relation to the recent High Court Case between Diamrem Limited and the Cliffs of Moher Visitor Centre Limited and Clare County Council.
- L. Cleary, Director of Rural Development welcomed the judgement by the court of higher appeal whereby the trial judge was correct in finding that the application was not commenced within the statutory time period. It also

affirms that the Part VIII was carried out in compliance with proper planning and procedures. Mr. Cleary stated that Clare County Council will proceed to invite expressions of interest from local landowners who might have suitable land for sale for Park and Ride facilities at the Cliffs of Moher and proceed on that basis.

- Cllr. G. Keating welcomed work on the strategy for the Cliffs of Moher as well as the upgrade to Kilkee Fire Station.
- Cllr. J. Killeen informed the meeting that the Doolin Coastguard had been stood down in recent days and expressed hope that matters will be investigated as well as independent mediation and that it will be resolved as a matter of urgency.

The following correspondence was circulated with the agenda:

1. Correspondence dated 29th October, 2021 from the Department of Finance in relation to the Roadmap for Pensions Reform 2018-2023.
2. Correspondence dated 27th October, 2021 from the Department of Health in relation to the immunization programme in Ireland.
3. Correspondence dated 13th October, 2021 from Mr. Michael McNamara, T.D., in relation to the National Framework Plan.
4. Correspondence dated 28th October, 2021 from the Department of Housing, Local Government and Heritage in relation to housing matters.
5. Acknowledgement dated 13th October, 2021 from the Department of Finance in relation to the passport control facilities at Shannon Airport.
6. Correspondence dated 29th October, 2021 from the Department of Education in relation to back to school costs for parents.
7. Resolution circulated by Fermanagh & Omagh District Council in relation to the Syringes for Cuba Campaign/End the Blockade.
8. Resolution circulated by South Dublin County Council in relation to boycott of Israeli goods.
9. Resolution circulated by Tipperary County Council in relation to group water schemes.
10. Resolution circulated by Kerry County Council in relation to flying the Palestine Flag on November 29th which is the International Day of Solidarity with the Palestinian people.

Conferences.

Reports on Seminars/Conferences attended.

With regard to seminars/conferences attended, reports completed in accordance with Section 142 of the Local Government Act 2001 were made available at the meeting.

AILG elected members training Programme Module 1 - “Government Decision on the Reform on Remuneration Payable to Local Authority Elected Members and Update on Planning and Development Bill” taking place in Tralee, Co. Kerry on the 16th September, 2021.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €245.36 including conference fee of €65

It was agreed that Cllr. T. O’Brien attend this Conference.

AILG elected members training Programme Module 1 - “Government Decision on the Reform on Remuneration Payable to Local Authority Elected Members and Update on Planning and Development Bill” taking place in the Tower Hotel & Leisure Centre, Waterford on 18th September, 2021.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €345.29 including conference fee of €65.

It was agreed that Cllrs. J. Cooney and G. Keating attend this Conference.

AILG Training Programme Module 1 entitled “Government Decision on the Reform on Remuneration Payable to Local Authority Elected Members and Update on Planning and Development Bill 2021 and other Planning Related Matters” being held in the Sligo Park Hotel, Pearse Road, Sligo on 2nd October, 2021.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €304.48.

It was agreed that Cllrs. P.J. Kelly and C. Colleran Molloy attend this Conference.

AILG elected members training - “Planning and Development Bill” taking place in the Horse & Jockey Hotel, Thurles, Co. Tipperary on 5th October, 2021.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €291.94 including conference fee of €65.

It was agreed that Cllr. C. Murphy attend this Conference.

Conference entitled “Mental Health & Wellbeing” taking place in O’Donovan’s Hotel, Clonakilty, Co. Cork on 8th – 10th October, 2021.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €450.77 including conference fee of €100.

It was agreed that Cllr. P. Daly attend this Conference.

Conference entitled “Housing for All” taking place in the Four Seasons Hotel, Carlingford, Co. Louth on 29th – 31st October, 2021

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €453.36 including conference fee of €100.

It was agreed that Cllr. A. Norton attend this Conference.

LAMA Autumn Training Seminar taking place on 3rd and 4th November, 2021 at Sligo Park Hotel.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €400 including conference fee of €150.

It was agreed that Cllrs. T. O'Brien, C. Colleran Molloy, G. Keating, J. Cooney, A. Norton and P.J. Kelly attend this Conference.

AILG Training Programme Module 2 entitled "Elected members mental health and wellbeing" being held in the Avalon House Hotel, Castlecomer, Co. Kilkenny on 10th November, 2021.

The Meetings Administrator informed the Members that the estimated average cost per Councillor attending this Conference was €287.50 including conference fee of €65

It was agreed that Cllrs. G. Keating, A. Norton, C. Colleran Molloy and P.J. Kelly attend this Conference.

The meeting then concluded.

Signed: _____
Riarthóir Cruinnithe

Signed: _____
Cathaoirleach

Date: _____