

**KILDARE COUNTY COUNCIL**

**Minutes of meeting of Full Council held at 3:00 p.m.**

**Monday 24 April 2023 in the Council Chamber**

**Áras Chill Dara, Devoy Park, Naas, Co Kildare.**

**Members Present:** Councillor F Brett(Cathaoirleach), Councillors VL Behan, A Breen, A Breslin, B Caldwell, B Clear, M Coleman, A Connolly, N Connolly, Í Cussen, B Dooley, S Doyle, K Duffy, T Durkan, A Farrelly, D Fitzpatrick, C. Galvin, P Hamilton, N Heavey, I Keatley, C Kelly, C Kenny, N Killeen, M Leigh, P McEvoy, S Moore, J Neville, N Ó Cearúil, P O'Dwyer, T O'Dwyer, C Pender, R Power, E Sammon, P Ward, B Weld and B Wyse.

**On Line** Councillors F McLoughlin Healy, M Stafford, V. Liston.

**Apologies:** Councillor A Feeney.

**Also Present:** Mr. J Boland, Deputy Chief Executive, Ms. A Aspell, (Director of Service), Ms. A Granville, Ms. M Higgins, Mr. D Hodgins (A/Director of Service) Ms. F Millane (A/Head of Finance), Ms. B Sweeney (Financial Accountant), Ms. C O'Grady (Meetings Administrator), Mr. J Hannigan (Meetings Secretary) and other officials.

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The Cathaoirleach welcomed everyone to the April meeting of Council and sought the members continued co-operation in adhering to protocols on speaking times to continue the efficient use of the time available.

He noted that Mr. J. Boland Deputy Chief Executive was attending in place of the Chief Executive who was unable to attend. He advised that this was Mr. Boland's last meeting prior to his secondment to An Bord Pleánala. The members congratulated him on his appointment, reflected on his work in Kildare and wished him well in his new role. Mr. Boland thanked the members.

**01/0423**

**Bereavements**

The Cathaoirleach extended his sympathy to the families of the late:

Helen Mulkerrins, mother of Sarah Mulkerrins, Housing.

John Joe Walsh, father of John Walsh, Finance.

Con Kane, former retired member of staff and father of Edward Kane, Waterworks Caretaker.

Cecil Doyle, former retired member of staff.

A minute's silence was observed.

**02/0423**

**Declaration of Interests**

The Cathaoirleach sought from the members any declarations of, conflicts of interest or pecuniary or beneficial interests under Section 177 of the Local Government Act 2001 as amended. There were no declarations.

**03/0423**

**Minutes and Progress Report**

The council considered the draft minutes of the monthly meeting held on the 27 March 2023 together with the progress report.

Ms O'Grady informed the meeting that there were two amendments to the minutes presented. The first amendment was to the numbering which was out of sequence from item 24 to 30. The second amendment was in Brigid 1500 where the term Chair of the Twinning Committee had been used, this should read as Chair of the Local Community and Cultural SPC.

**Resolved** on the proposal of Councillor Ó Cearúil, seconded by Councillor Kelly and agreed by a majority of the members present that the minutes of the monthly meeting on 27 March 2023 be adopted with the amendments outlined.

Councillor McLoughlin Healy abstained

The progress report was noted.

**04/0423**

**Chief Executive's Monthly Management Report**

The members noted the Chief Executives monthly management report.

**05/0423**

**Draft Serviced Sites Scheme 2023-2029**

The members considered the Draft Serviced Sites Scheme 2023-2029

Councillor Power informed the meeting that further engagement with members was needed.

A webinar would be set up on Thursday 04 at 11.00am for members. Councillor Power was advised that there was an SPC meeting that morning at 11.30. He advised that the briefing should finish before the start of the SPC.

**Resolved** on the proposal of Councillor Power seconded by Councillor Moore and with the agreement of the members that this item be adjourned to the May meeting.

**06/0423**

**Quarterly Update on Climate Action**

The members considered the Quarterly Update on Climate Action.

Mr Boland informed the meeting that a comprehensive report had been circulated to the members. As this was his last meeting he thanked the members for their support. He informed them that Kildare County Council was the lead authority for 17 local authorities and he stressed the importance of taking a strategic view on Climate Action. He drew their attention to a number of items in the report.

- Climate action Plans which had to completed by February 2024
- Training Events arranged for 26 April in Tullamore on Climate Action initiatives and opportunities organised by AILG
- Just Transition funding which should provide opportunities for communities in the west of Kildare.
- The conversion of LA fleets to electric vehicles,
- The green initiative with GAA clubs.

He also referred to the work carried out by the CARO office.

The report was noted.

**07/0423**

**Community Heritage Grant Scheme 2023 Recommendations**

The members considered the countywide Community Heritage Grant Scheme 2023 recommendations.

County Kildare	County Kildare Archaeological Society	Printing and distribution of the Society's 2022/223 Journal	€1,500.00
County Kildare	North Kildare Bee Keepers Association	Training an additional 20 beekeepers in the skills required to raise Queens	€1,335.00

**Resolved** on the proposal of Councillor Leigh seconded by Councillor Kelly and agreed by the members present that the countywide Community Heritage Grant Scheme 2023 recommendations be approved.

**08/0423**

**Nomination of Members to the Brigid1500 Steering Committee**

The members considered the nomination of members to the Brigid1500 Steering Committee and the report issued seeking a nomination from each Municipal District. Councillor Stafford informed the meeting that this had come about as a result of his motion at last months council meeting.

The Cathaoirleach advised that he would take nominations from the floor for each Municipal District.

Councillor Brian Dooley was nominated by Councillor Behan and seconded by Councillor Mark Leigh for Athy Municipal District.

Councillor Suzanne Doyle was nominated by Councillor Robert Power and seconded by Councillor Carmel Kelly for Kildare Newbridge Municipal District

Councillor Carmel Kelly was nominated by Councillor Bill Clear and seconded by Councillor Seamie Moore for Naas Municipal District.

Councillor Angela Feeney was nominated by Councillor Naoise Ó Cearúil and seconded by Councillor Peter Hamilton for Clane Maynooth Municipal District.

Councillor Vanessa Liston was nominated by Councillor Ciara Galvin and seconded by Councillor Íde Cussen for Celbridge Leixlip Municipal District.

Councillor Mark Stafford was nominated by Councillor Tracey O'Dwyer and seconded by Councillor Kevin Duffy for Kildare Newbridge Municipal District.

Councillor Duffy proposed that there should be 2 members from Kildare Newbridge Municipal district. Councillor T O'Dwyer proposed that there should be 1 member per Local Electoral Area. Councillor Wyse seconded the proposal.

Councillor McLoughlin Healy asked should the number of positions not be decided before any nomination or vote took place.

Councillor Ó Cearúil proposed that the members vote on the 4 nominations where single nominations had been put forward for the Municipal District. The issue of Kildare Newbridge two nominations could be resolved by the Municipal District. This was seconded by Councillor Kelly

The Cathaoirleach called for a vote on the proposal to have 2 nominations for Kildare Newbridge.

The proposal was defeated with 13 members voting in favour 17 voting against and 2 abstaining.

The Cathaoirleach called on members to establish the number of positions to be filled and if that should be one member representing each Municipal District.

Councillor O'Cearúil seconded by Councillor Kelly proposed that there be one member from each MD on the steering committee. A vote was taken and with 20 members voting in favour, 9 voting against and 5 abstaining it was resolved that the number of positions to be filled was 5, one representing each Municipal District.

Councillor Stafford informed the meeting that he wished to withdraw his name from the process as he did not want to create an issue or take from the good work of the committee.

He stated that this had not been handled very well by the executive who should reflect on this.

The Cathaoirleach noted that there were 5 names standing before the council for approval, one from each Municipal District.

**Resolved** on the proposal of Councillor Ó Cearúil seconded by Councillor Kelly and agreed by the members present that Councillors B. Dooley, S. Doyle, C. Kelly, A. Feeney and V. Liston be appointed to the Brigid 1500 steering committee.

**09/0423**

**Chief Executive to act on behalf of Kildare County Council**

The members considered the request for the consent of the Elected Members for the Chief Executive to act for and on behalf of Kildare County Council under Section 153(2) of the Local Government Act, 2001 in the case of Record Number 2023/110 JR Cairn Homes Plc, Cairn Homes Properties Limited and Glenveagh Properties Plc and Kildare County Council and The Office of The Planning Regulator”.

Ms Granville informed the members that the County Development plan was the subject of a Judicial Review. The case had been entered in the commercial court which meant it would be fast tracked. Under Section 153(ii) of the Local Government Act, 2021 as amended the consent of the members is required.

The members raised the following

The reason this judicial review was being taken was because of the conditions imposed by the Office of the Planning Regulator (OPR).

Had the Council any ideas of the cost likely to be incurred?

The Office of the Planning Regulator should be approached to bear part or all of the costs of the action.

What was the reason behind the Judicial Review?

How long would the judicial review take?

Have the council set out the grounds for defence?

What would happen if the members did not give approval?

Why were the members being asked for their approval?

Can the Chief Executive make the decision?

Councillor McEvoy informed the members that as they had approved the County Development Plan this was a reserved function and he believed this was why the council was seeking the consent of the members.

Ms Granville advised that while it may not be successful or feasible the council would write to the OPR seeking contribution to the council costs, however Ms Granville could not attribute potential costs for this case at this stage nor could she advise of the length of time such a case might take. Ms Granville did note however that the case was, as previously advised, now in the commercial court.

Ms Granville advised that the members were being asked for consent as the decision to adopt the County Development Plan was a reserved function, not an executive function.

**Resolved:** On the proposal of Councillor McEvoy seconded by Councillor Moore and agreed by the majority of members present that the request for the consent of the Elected Members for the Chief Executive to act for and on behalf of Kildare County Council under Section 153(2) of the Local Government Act, 2001 in the case of Record Number 2023/110 JR Cairn Homes Plc, Cairn Homes Properties Limited and Glenveagh Properties Plc and Kildare County Council and The Office of The Planning Regulator” be approved. Councillor Doyle abstained as she had not voted in favour the adoption of the County Development Plan.

### **10/0423**

#### **Gnó an Cathaoirleach/Cathaoirleachs Business**

The Cathaoirleach informed the members that he had attended the launch of the Bealtaine Festival in Lawlors Hotel in Naas.

He also attended the Finding Form in the Riverbank theatre and congratulated Ms Russell on the success of the event.

### **11/0423**

#### **Comhfhreagras/Correspondence**

The Meetings Administrator confirmed six items of correspondence had been circulated to the members along with the progress report. These included a reply from the NTA re Briefing to Full Council, an acknowledgement from office of Minister Pascal Donohoe TD re Capital Funding for Legacy Estates, three motion referrals from other local authorities and an item of correspondence from Senator V. Boyhan re Oireachtas Public Accounts Committee & Local Govt Accountability. A report was also circulated in relation to the official visit to New York for St. Patrick’s Day.

The correspondence was noted.

## 12/0423

### Conferences and Training

The Meetings Administrator referred to the conference and training report which had been circulated in advance of the meeting and had been recommended by the Corporate Policy Group.

Retrospective approval for attendance, at training already approved was requested as follows:

IREO Training, EU Funding Conference at Radisson Blu Hotel, Athlone, 19 April, Councillor Breslin.

Retrospective approval for training event and attendance was requested as follows:

AILG Annual Training Conference Hotel Kilkenny 19 and 20 April.

Councillors Brett, Caldwell, Kelly at a cost of €165 plus travel and subsistence.

Approval for the following new training events was requested.

AILG training on Climate Action Plans at the Mullingar Park Hotel, Mullingar, 15 June at a cost of €80 plus travel and subsistence.

AILG Webinars

Local Authority Climate Action Plans 26 May.

Irish Language Training 30 June.

Councillor Security 14 July.

Training Events AILG, Uisce Éireann, Radisson Hotel Cork 20 July 2023

and Sligo Park 22 July 2023 at a cost of €80 plus travel and subsistence.

Approval was sought for the following conference and attendance.

CMG Events, Construction Costs, Housing for All, Online 27 April. The cost was €435 plus VAT early bird or €535.00 plus VAT normal. Councillor McLoughlin Healy had requested approval to attend.

**Resolved** on the proposal of Councillor McEvoy seconded by Councillor P. O'Dwyer and agreed by the members that the events and attendance of members be approved.

**13/0423**

**Funding of Active Travel Projects**

The following motion in the names of Councillors Naoise Ó Cearúil, Carmel Kelly, Michael Coleman and Veralouise Behan was considered by the members.

That the council establishes a policy for how it funds active travel projects. The council has become over reliant on the NTA to fund projects that have at various stages been withdrawn by the NTA without Council input.

The motion was proposed by Councillor Ó Cearúil and seconded by Councillor Kelly

A report from Ms C Barrett, A/Director of Services, Roads, Transportation and Public Safety stated that the Department of Transport funds active travel projects through the annual Active Travel Investment Grant allocations, administered by the National Transport Authority (NTA). This funding is provided on the basis of compliance with the conditions attached to the allocations and projects adhering to the requirements set out by the NTA.

The conditions do not preclude the Council assigning some of its revenue to fund schemes that do not qualify for central funding. However, the cost of the entire life-cycle of the project (planning, design and construction) would need to be considered in this regard.

The Capital Programme is fully allocated to 2025. The council can start to allocate capital funding, subject to its availability, to sustainable travel modes in future Capital Programmes.

Councillor Ó Cearúil explained that projects are put forward for approval to increase active travel. Members frustration is that they are reliant on NTA for funding to deliver these projects. Projects are announced and then disappear of the list. He intends raising this with the Minister

The members raised the following

- The Council were getting insufficient funding from the NTA, as a result the council had to consider cheaper options.
- Where could the council find the alternative funding?

- Funding was required to deliver active travel projects some of which had been on lists for 10 years.
- The council were creating housing estate islands across the county. Active travel schemes needed to be delivered for these.
- Pressure needs to be put on the Minister.
- Cycle lanes and pedestrian crossing have a positive impact on active travel.
- Plans get prepared and are then left sitting on the shelf because of lack of funding.

Mr Hodgins replied that this motion was timely and that last year the council had received €9.5 million, a significant increase on previous years.

He had been able to increase resources and set up a Sustainable Transport Team.

The foundations were in place to deliver, what needed to be managed was timescale and expectations. He appreciated the support being given by the members which proved the concept was being embraced. The issues could be raised with Ms Graham Chief Executive of the NTA who was scheduled to meet the members in May.

Councillor Ó Cearúil informed the meeting that this was a government agency who announced different projects and then these projects did not go ahead. This is where the issue comes from. He would talk to the Minister.

**Resolved** on the proposal of Councillor Ó Cearúil seconded by Councillor Kelly and agreed by the members that the report be noted.

### **14/0423**

#### **Speed Limit Review**

The following motion in the names of Councillors Tracey O'Dwyer and Peggy O'Dwyer was considered by the members.

That Kildare County Council provide a detailed update as to what stage the Speed Review is at and when will it come back before members for review.

The motion was proposed by Councillor T O'Dwyer and seconded by Councillor P'O Dwyer.

Mr Hodgins informed the meeting that the speed limit review proposals had been put to the members last July and were rejected by the members. The review was now finished. The next step would be to restart the process. Mr Hodgins confirmed that the Department of Transport is currently reviewing the National Guidelines for setting and managing speed limits and it would be prudent to await the findings.

Councillor T O'Dwyer enquired if it was mandatory for the Jake's Law review to be carried out with the County Speed Limit review.

The members raised the following,

- Could a working group be set up to look at the problem areas?
- Could the process be run in different stages?
- Can Jakes Law be decoupled from the process?
- Can the process be carried out as soon as possible?
- The council should change the road to suit the speed limit.
- The speed limit should be 50kph in towns and 80kph on vulnerable roads.
- There was total support for Jake's Law during the review, the members were forced to vote on the complete package which prevented its introduction.
- The council has the money for signage for Jake's Law
- 80 to 90% of the work was already done.
- The members had passed a motion in July 21 seeking to have Jake's Law implemented.

Councillor T O'Dwyer advised that she did not accept that Jake's Law cannot be a separate process but would wait to see the guidelines and then see where this would go.

**Resolved** on the proposal of Councillor T O'Dwyer seconded by Councillor P O'Dwyer and agreed by the members that the report be noted

**15/0423**

**District Managers**

The following motion in the name of Councillor Seamie Moore was considered by the members.

That members agree to seek Local Government change that will require District Managers, working with the Chief Executive, to give action to process members agreements on local issues.

The motion was proposed by Councillor Moore and seconded by Councillor Caldwell.

A report from Ms A Aspell Director of Services, Housing and Corporate Services stated that reserved functions of council and municipal districts are set out in schedule 14 A of the Local Government Act 2001 as amended. Section 132 of the act provides that it is the duty of every Chief Executive to carry into effect all lawful directions of the elected council of a local authority or municipal district in relation to the exercise and performance of the reserved functions of the local authority or municipal district.

Direction of staff is a matter for the Chief Executive (CE) and, in this regard, the CE has delegated responsibility for the operation of functions to Directors of Service on a countywide basis, and has also appointed Directors of Service as District Managers to work with the elected members of the five Municipal Districts. While some services are delivered at district level most are delivered on a countywide basis and are the responsibility of the relevant Director of Service rather than the District Manager.

As previously advised at the February meeting, in relation to follow up on action plan/progress report items, which Councillor Moore felt was the responsibility of the District Managers, the CE advised that the council had set up an executive team and part of their remit is to provide assistance to the Directors with their workload. It is not feasible for the District Manager to take on extra responsibilities with regard to the work of a Municipal District.

Councillor Moore informed the meeting that he believed the current system

where decisions of the Municipal District Committees were tracked through the progress report was weak. The Chief Executives report was a county wide report and did not cover items agreed at municipal district level. It leaves items agreed at local level up in the air.

Councillor Doyle asked should larger municipal districts have quasi municipal district managers. it seemed a practicable means of adding value.

Ms Aspell explained that the ultimate responsibility lay with the Director of Services She accepted the tenet of the motion. Additional resources and budgets and sanction would be required. The executive suite administration was set up to support the Directors in their work and this should result in more projects coming to fruition.

**Resolved** on the proposal of Councillor Moore, seconded by Councillor Caldwell and agreed by the members that the report be noted.

#### **16/0423**

#### **Review of Bark Chip Surfaces in Playgrounds**

The following motion in the name of Councillor Angela Feeney was considered by the members.

As Councillor Feeney was unable to attend she had authorised Councillor Breslin to move her motion

That the council reviews the policy for installing bark chip surfaces in playgrounds, both planned and existing, in order to improve accessibility for wheelchair users.

The motion was proposed by Councillor Breslin and seconded by Councillor Ó.Cearúil

A report from Ms M Higgins, A/Director of Services, Economic, Community and Cultural Development stated that Kildare County Council currently use loose fill surfaces (ie sand and bark) under particular pieces of equipment where there may be a potential fall greater than 2m or where there is a risk of abrasion ie Cable runs / Ziplines. These surfaces are considered safer than the rubber bound surfaces under these particular pieces of equipment. Additionally, the use of loose fill is more

sustainable than the rubber surfaces due to the fact the materials are natural and recyclable. The loose fill surfaces also provide sensory play.

The Royal Society for the Prevention of Accidents (Rospa) who assess and advise on safety and accessibility in playgrounds consider the use of bark chip as accessible. Accessibility is an important consideration in all our playgrounds and the council is open to suggestions to improving this. Going forward, any suggestions on how we can improve the accessibility of playgrounds with loose fill surfaces while also retaining the safety, sustainability and play benefits they provide would be welcomed.

**Resolved** on the proposal of Councillor Breslin, seconded by Councillor Ó Cearúil and agreed by the members present that the report be accepted.

### **17/0423**

#### **Online Option for Housing Applications**

The following motion in the name of Councillor Noel Connolly was considered by the members.

That Kildare County Council provide an online option for Housing Applications, with a provision to track progress on all applications, both online and paper form.

The motion was proposed by Councillor N Connolly and seconded by Councillor Pender

A report from Ms A Aspell, Director of Services, Housing and Corporate Services stated that the council is supportive of the provision of an online application process. A Business Case is currently being progressed for the sector by the Local Government Management Association for a new National Housing ICT solution. A key requirement of the business case is that the system must support the digitisation of social housing applications. I am not in a position to confirm a timeframe for introduction of a new Housing ICT system at this stage, however, work is progressing to conclude the Business Case. The members will be kept updated on the progress of this matter.

Councillor Noel Connolly thanked Ms Aspell for the report and informed the meeting that the on line access strategy was targeted by Dublin City Council and South Dublin County Council in 2020. They have achieved this, applications can be tracked to see how long they are taking.

Councillor Ó Cearúil commended the motion and informed the meeting that the LGMA were looking at this and the length of time it took to process an application. A system such as this would streamline the whole process.

Councillor Doyle asked if the system could be made multi lingual?

Ms Aspell informed the meeting that the South Dublin and Dublin City systems were different to those used by other Local Authorities. The council did not have the resources to develop their own system inhouse. The Housing Department is preparing a business case for an online portal. This has to be accepted by DIPA and if successful will then go to tender. She will raise the issue of translations with the Head of IT

**Resolved** on the proposal of Councillor N Connolly, seconded by Councillor Pender and agreed by the members present that the report be noted.

### **18/0423**

#### **Development Contributions and Capital Expenditure**

The following motion in the name of Councillor Nuala Killeen was considered by the members.

That the council provide a report, in tabular format, on the amount of development contributions collected, the amount of development contributions and capital expenditure spent, in each municipal district over the last 15 years.

The motion was proposed by Councillor Killeen and seconded by Councillor Farrelly.

A report from Ms F Millane, A/Head of Finance stated that as the members are aware Development Contributions are divided on a county-wide basis for carparking, roads and surface water, with the remainder ring-fenced for use within the Municipal District in which they were raised. As part of the process of compiling the annual three-year capital programme each September, the actual amount of development

contributions collected from start of scheme in 2004 to that August is compiled to assist in the preparation of this three-year capital programme. The three-year Capital Programme 2023-2025 that was presented to council at the November 2022 Budget meeting shows the expenditure for each project by Municipal District and each project was also analysed under their current stage with an Estimated Start Dates for their next stage. This Programme will be updated as part of the Budget 2024 process. Capital projects must go through a number of stages before construction commences - and this can be a long process over several years. The Capital Programme itself, however, is a three-year programme. The result of this is that development contributions are committed to projects as early in the process as possible, to ensure that finance is not a 'blocker', but this may result in a financial commitment for some time before works commence. The attached report shows all development contributions collected from March 2004 to end August 2022 and the projects these contributions have been committed too. The actual spends each year on capital projects is presented to council as part of the Annual Financial Statements since 2021. In January 2022 in reply to a Fianna Fail motion the actual spend on capital projects from 2016 to 2020 was also presented to council. As highlighted in the recent submission on Local Government Baseline Funding Review, Kildare is ranked 30 out of 31 LA's for the Number of Staff per head of population which has impacted on Kildare's ability to deliver on the capital programme, however Kildare's Budget 2023 provided for an increased headcount in the recreation/public realm area which should assist in the delivery of projects going forward. See Appendix 1

Councillor Killeen informed the meeting that the report was timely. There were lots of projects waiting to be delivered or to be commenced. The prospect that the Cabinet might agree to suspend Development levies would impact on the ability of the local authorities to deliver capital projects. She also commented that in her opinion there was an underspend of development contributions in Celbridge Leixlip Municipal District

**Resolved** on the proposal of Councillor Killeen seconded by Councillor Farrelly and agreed by the members present that the report was noted.

**19/0423**

**Policy on use of Electric Scooters and Bicycles**

The following motion in the name of Councillor Noel Heavey was considered by the members.

That the council develop a policy in relation to use of electric scooters, electric bicycles and other similar sustainable transport issues at Strategic Policy Committee level, that this be brought forward for discussion and adoption at full council and forwarded to the Department of Transport as our contribution to national policy.

The motion was proposed by Councillor Heavey and seconded by Councillor Killeen.

A report from Ms C Barrett, A/Director of Services, Roads, Transportation and Public Safety stated that new legislation is pending in relation to e-scooters, to be defined as Personal Powered Transporters (PPTs) and the Road Traffic and Roads Bill 2021, currently in the Oireachtas, will also clarify the legal position for a range of other light electric vehicles: e-bikes, e-mopeds and e-cargo bikes. The Bill will:

- Allow for the regulation of e-scooters as PPTs. Only e-scooters that comply with the regulations will be legal for use on public roads.
- Define e-bikes and e-cargo bikes, that comply with the relevant EU type approval legislation, as bicycles
- Confirm bicycle-based e-mopeds and cargo e-mopeds, that exceed the e-bike type approval limits, as mechanically propelled vehicles.

The Bill will classify PPTs based on current EU Type Approval definitions under EU Regulation 168/2013.

Currently, there are no plan to legalise the use of other vehicle types that might be considered PPTs, including hoverboards, unicycles, one wheels, segways and powered skateboards.

The timelines that we have received from the Department indicate that, following a standstill period of 12 weeks to comply with EU legislation/Single Market Transparency Directive (Technical Regulation Information System (TRIS)), the new provisions will attain legal effect towards the end of summer/early autumn 2023.

The implications of this legislation for Kildare can be referred to the SPC for consideration.

Councillor Heavey thanked the Director for the report. The motion was put forward on foot of requests from members of the public about the unregulated use of these scooters and the dangers they posed to pedestrians.

The members expressed concern that the regulation of these would be delayed by the Oireachtas.

**Resolved** on the proposal of Councillor Heavey, seconded by Councillor Killeen and agreed by members that the report be noted.

### **20/0423**

#### **Vacant Site Levy**

The following motion in the name of Councillor Bill Clear was considered by the members.

That the council provide to the members a progress report on the vacant site levy as required by PL 03/2022 direction of the Department of Housing, Local Government and Heritage.

The motion was proposed by Councillor Clear and seconded by Councillor Pender

A report from Mr E Ryan, Director of Services, Planning and Strategic Development stated that the process of implementation of the Urban Regeneration and Housing Act 2015 (under which the VSL is administered) begins with a desktop assessment which leads on to a site inspection where sites are photographed, and a report is prepared which includes a general description of the site and previous planning history if it exists. In excess of 200 sites were surveyed throughout Co. Kildare in Leixlip, Kildare, Maynooth, Newbridge, Sallins, Celbridge, Monasterevin, Clane, Kilcock, Kilcullen, Naas and Athy.

The process of valuations for 7 sites has also been completed. A further 8 sites are the subject of appeals to An Bord Pleanála and an additional 14 sites have been

issued notices. Of the 223 sites, only 15 sites have been entered on the register. The primary reason for this is that many of the towns which would be subject to the VSL in County Kildare are either a) among the towns (Eircode areas) with the highest housing delivery figures in the GDA (Source; CSO New dwelling completions) [i.e., Maynooth/Naas] or b) have a significant physical infrastructure constraint limiting the application of the levy (i.e., 2nd bridge in Celbridge, 2nd Bridge in Newbridge, Southern Distributor Road in Athy).

It is of significant importance to note that the Finance Act 2021 - Residential Zoned Land Tax (RZLT) [which will be administered by Revenue] is the Governments priority for Land Activation which will require landowners (where land is adequately serviced) to activate lands in order to deliver housing. The process to prepare the Draft maps for RZLT has been completed by the council. Further stages of this process will be undertaken during 2023.

Councillor Clear informed the meeting that this was not what he was looking for. There were 223 vacant sites only 15 were registered. It was important that the council collected funds from these. He asked for a copy of the report sent to the department.

Mr Ryan informed the meeting that he was not aware of the report referred to but would check it out.

**Resolved** on the proposal of Councillor Clear, seconded by Councillor Pender and agreed by the members that the report be noted.

### **21/0423**

#### **Councillor Notification of all Court Cases**

The following motion in the name of Councillor Fiona McLoughlin Healy considered by the members.

That the council notify and advise all councillors of any court cases it is a plaintiff or defendant in.

The motion was proposed by Councillor McLoughlin Healy and seconded by Councillor Kelly.

A report from Ms A Aspell, Director of Services, Housing and Corporate Services stated that The Local Government Act 2001 as amended provides that in relation to legal proceedings the Chief Executive for a local authority shall act for and on behalf of the local authority in every action or other legal proceeding whether civil or criminal, instituted by or against the local authority, and may do all such acts, matters, and things as he or she may consider necessary for the preparation and prosecution or defence of such action or other proceeding in the same manner in all respects as if (as the case may require) he or she were the plaintiff, prosecutor, defendant or other party to that action or other proceeding.

Where an action or other proceeding relates to the exercise or performance by the local authority of a reserved function, the Chief Executive for that authority shall, in the doing of any such act, matter, or thing referred to above, act with the express authorisation of the elected council of such local authority, and in any proceedings such authorisation shall be deemed to have been given unless or until the contrary is shown.

The council in the exercise of its powers of enforcement initiates legal proceedings across a range of services some of which culminate in court cases. Similarly, as a public authority and employer it is subject to claims from a range of individuals and groups, some of which may end up as court cases. In some instances, the council may have to directly defend proceedings and in others they may be dealt with through the council's insurers. Court proceedings can range from the prosecution of a fine to the defence of statutory plans such as the County Development Plan.

As members are aware there is no legal department or unit within the council and all directorates manage their own cases. Some cases go no further than a notice that action will be taken and others end up in court. Where a matter ends up in the court it becomes a matter of public record. Care must be taken to protect all parties in any ongoing case, in particular the council must have regard to the privacy rights of individuals and the detriment that could be caused to both the council and individuals undergoing legal process. The operation of such matters is an executive function.

On foot of a previous motion to council it was agreed that proceedings that were relevant or significant would be flagged to the members and this is being done at meetings of the Corporate Policy Group.

Councillor McLoughlin Healy queried the role of the Corporate Policy Group (CPG) and informed the meeting that she was not receiving copies of any emails. She had the same rights as the members of the CPG and wished to be advised of details of legal cases

Ms Aspell informed the meeting that minutes of CPG meetings were available to the members on the Members Information Portal.

The members were advised that the Executive would bring issues of relevance to CPG, dealing with legal proceedings was an executive function.

Councillor McLoughlin Healy asked for the information to be provided to her although she acknowledged that there is no specific provision in legislation to require it but it is part of her oversight function. She said that she was shocked that no other councillor wanted this information. She stated that it was a worrying trend to withhold information from councillors.

**Resolved** on the proposal of Councillor McLoughlin Healy, seconded by Councillor Kelly the report was noted.

## **22/0423**

### **Housing Allocations**

The following motion in the name of Councillor Suzanne Doyle was considered by the members.

That the council provide a report on housing allocations to include the number allocated within the past 3 years including location and the number of refusals with locations refused and reasons given.

The motion was proposed by Councillor Doyle and seconded by Councillor Kelly.

A report from Ms A Aspell, Director of Services, Housing and Corporate Services stated that the Housing Department has made offers of accommodation across all 5

municipal districts. The table below provides the details of the numbers of properties allocated in the period 2020 to Quarter 1, 2023. The allocated properties include council and approved housing body owned and leased stock. There is no particular geographic pattern to refusals. The reasons cited for refusal are:

- Location: Housing applicants are allowed to select three areas of choice, however when offered a property they do not want to re-locate to their area of choice.
- The type of units being offered: The refusal rate on apartments is higher than traditional housing, linked to this reason is the desire for a garden and pet ownership.
- Category of unit being offered: For example, there is a higher rate of refusal of approved housing body units.
- Restrictions on future purchase.
- Change in circumstances.
- Applicants are satisfied to remain in HAP accommodation.

The Housing (Miscellaneous Provisions) Act 2009 governs the refusal policy, the councils Allocation Scheme for the Provision of Social Housing Support reflects the provision of this act. If a social housing applicant refuses two reasonable offers of accommodation within their stated area of choice within a 12-month period, they are suspended from offers for a period of 12 months. It is noted that the payment of HAP can continue for this period. The high rate of refusal is impacting on the vacancy rate for council and AHB owned properties and increases the resources required to allocate properties. In order to deal with refusals, the council is increasing the number of properties being let through choice based letting, as an applicant who refuses a property on which they bid are suspended from further bids for a period of one year.

The council would welcome a more prohibitive refusal policy being implemented.

As the members will be aware the council is currently operating the tenant in situ scheme and there is an emerging issue of tenants refusing or advising that they will refuse to accept council tenancies in properties which they are residing in as private

tenants. This matter will be kept under review, as we continue to roll out the scheme.

Year	Number of Properties Allocated	Number of Refusals Received
2020	725	249
2021	784	210
2022	822	234
Q1, 2023	385	92
Total	2, 716	785

\*The provision of information at Municipal District level will take additional time to collate and if requested by the members this can be arranged.

Councillor Doyle welcomed the report. She noted the high level of refusals. Refusals led to extra administrative work. It was important that the public update their forms. This could help reduce the levels of refusal.

The members raised the following.

- There were legitimate reasons for refusal.
- It was disappointing to see the level of refusal for new homes.
- Having online access to applications will allow tenants to update their details.
- It was a tenants right to refuse.
- Downsizing should also be considered as part of the solution.
- The reasons for refusal should be fed into the Housing SPC for consideration.
- Tenant in Situ scheme, if not accepted by the tenant there was a risk of homelessness and an increased workload for the Housing Department.

Ms Aspell advised that the increase in the number of refusals was concerning. The onus was on the applicant to keep their details up to date. Part of the new stock coming onstream will be apartments. The refusal policy can be considered by the Housing SPC. The two refusal rule before suspension does deserve more attention nationally.

**Resolved** on the proposal of Councillor Doyle, seconded by Councillor Kelly and agreed by the members that the report be noted.

The meeting concluded.