

**Minutes of Adjourned Meeting of Monaghan County Council held in the M-Tek Building, Knockaconny, Monaghan on Monday 19<sup>th</sup> January, 2009 at 10.00a.m.**

**Chair:** Cllr M. Carthy, Mayor

**Present:** Cllrs Bannigan, Carville, Conlon, Coyle, Crowe, Gallagher, Humphreys, Keelan, Keenan, Kieran, Martin, Maxwell, McAnespie, McElvaney, McNally, B. McKenna, P. McKenna, and Treanor.

Mr. D. Nelson, Co. Manager, Mr. P Clifford and Mr. D. Fallon, Directors of Service, Mr J. Murray, Head of Finance, Ms R. McManus, Senior Executive Officer, Ms. C. Thornton, Meetings Administrator, Ms. B O’Flaherty, Executive Chemist and Ms. L Brannigan, A/Staff Officer.

**Apologies:** Cllr O’Brien

The Mayor welcomed all present to the meeting and invited the Chair of the Housing SPC to address the meeting.

Cllr Sean Conlon, Chair of Housing SPC requested that the Council agree to receive a report from that SPC, in order to facilitate the processing of applications under the Housing Aid for Older People and the Housing Adaptations Grants Schemes. This was agreed unanimously. Cllr Conlon then gave an outline of the “Approved Works and Scheme of Priorities for 2009” which had been discussed by the SPC, who were recommending its approval to the Council. The details, which were circulated to the Members, are as follows:

**Housing Aid for Older People Scheme 2009:**

**Max. Grant: €10,500**

The Scheme of Priorities for assessing grant applications remains unchanged, as follows:

1. Medical priority
2. Urgency and necessity of identified works in order to make the house habitable for the elderly person(s).
3. Facilitate continuance of care in own home/facilitate direct return home.

**Housing Adaptation Grants Scheme for People with Disabilities 2009:**

**Max. Grant €30,000**

The Scheme of Priorities for assessing grant applications remains unchanged, as follows:

- **Priority 1** – Urgent cases e.g. terminally ill, immobile and fully/mainly dependent on family or carer; or where alterations/adaptations would facilitate discharge from hospital or alleviate the need for hospitalisation in the future.
- **Priority 2** - Mobile but needs assistance in accessing washing, toilet facilities, bedroom etc; or where without the alterations/adaptations the disabled person’s ability to function independently would be hindered.
- **Priority 3** – Independent but requires special facilities to improve the quality of life, e.g. separate bedroom/living space.

Eligible applications falling into the Priority 1 category would be approved. Applications under Priority 2 and 3 are recommended to apply under the Mobility Aids Grant Scheme (Max Grant €6,000). If funding is available they may be approved for a grant to convert a living room or construct an extension to provide accessible bathroom facilities.

### **Approved Costs for Housing Adaptation Grants**

Installation of Stair lift	€ 2,000
Replace bath with level-access shower in existing bathroom	€ 5,800
Conversion of existing room (living room into bedroom) with new en-suite bathroom facilities (incl. level access shower) or provision of extension to provide accessible bathroom facilities to meet needs of applicant	€12,000
Construction of Extension comprising of Bedroom & Bathroom	€28,000

Where additional works are required to provide the above facilities, an additional amount may be approved.

*On the proposal of Cllr McElvaney seconded by Cllr Keenan it was agreed that the Council adopt the Approved Costs and Scheme of Priorities for 2009.*

*On the proposal of Cllr Treanor, seconded by Cllr Keelan, it was agreed that the Council write to the Department of the Environment, Heritage and Local Government seeking additional funding for the Housing Adaptations Grant Scheme in view of the large number of applications on hand.*

In response to a query from Cllr B. McKenna in relation to the Council's obligations under Part M of the Building Regulations, Mr. Clifford stated that he will arrange for a report on the Council's application of the Building Regulations to be brought to a future meeting.

### **1. To consider the following proposed variations to the Monaghan County Development Plan 2007 – 2013**

#### **a) SPC and CPG recommendations in respect of review of Policy NH1 – Policies for Nursing Homes.**

Cllr D. Maxwell, Chair of the Planning & Water Services SPC outlined the views of that committee in relation to the review of Policy NH1 relating to nursing homes. He made the following points:

- Has there been a need established and can it be quantified
- Accessibility of nursing homes to services in urban areas - nursing homes should be located in urban areas to allow ease of access to services.
- Nursing homes can be served by community bus.
- Nursing homes should have appropriate amenity areas/gardens within them.

- It was stated that better services are available in settlements and edge of settlements zoned for this purpose compared to the countryside. People would be isolated in the countryside.
- There is a need for nursing homes as there are no free beds at the moment. Land is cheaper in the country. There is a need to clarify the difference between a retirement village and a nursing home.
- There are 1,863 hectares of land within settlements and on the edge of settlements which could be used for nursing homes under the current provisions of the County Development Plan.

In conclusion Cllr Maxwell stated that the recommendation of the SPC is that the existing policy NH1 in the Monaghan County Development Plan 2007-2013 should be left as is.

*Cllr Carville proposed, Cllr Crowe seconded that the Council proceed to initiate procedures under the Planning and Development Act to amend the policy governing the provision of Nursing Homes (NHI) in the County Development Plan 2007-2013 – the amended policy to read as follows:*

*For reasons of sustainability, accessibility, social inclusion and availability of services, nursing homes and nursing home/retirement villages should be located*

- *Within or adjacent to towns and village or,*
- *Within a rural area where demand has been established.*

Reasons for the variation:

1. To take account of the increased and increasing number of older members of our county community and the need for more choice in terms of affordable nursing home care both now and in the future, with due regard to the overall needs for sustainable planning in the county.
2. To enable older people to live in a secure community in a rural setting, with access to 24 hour medical care, community facilities and social networking that is provided in a nursing home/retirement village setting.
3. To create enhanced opportunities for the provision of nursing home care/retirement villages in County Monaghan.
4. To allow greater choice and opportunity to older people and their families through the provision of more options for nursing home care and retirement villages in a controlled manner which does not seek to promote the development of such facilities in all parts of the open countryside.

A general debate followed during which the members discussed the urgent need for additional nursing homes in the county. At present people could not be discharged from hospitals because of the non availability of nursing home beds. Members were of the view that the proposed variation, if agreed, might be regarded as an initiative to boost economic regeneration.

Mr. Declan Nelson, County Manager, acknowledged the comments of the Members in this matter and the need for additional nursing homes in the county. However, he advised the members of the disadvantages of providing such facilities outside of the

zoned areas where there are no services i.e. water/sewerage, public lighting, footpaths. The Council has a policy of putting in services in urban areas and it is contrary to that policy not to maximise these services and the investment that has been made in them. He also referred to the road safety implications of locating nursing homes in rural areas which will lead to increased vehicular and pedestrian traffic. He asked the members to consider this before reaching a conclusion.

Mr. Adrian Hughes, Senior Planner stated that the existing policy does not prohibit the development of nursing homes. He advised the members that, throughout the county, there is currently circa 5,000 acres of zoned land on which nursing homes may be located. In addition to this, nursing homes may be located on the edge of settlements which provides a further 5,000 acres of available land.

**A vote by show of hands on Cllr Carville's proposal resulted in 14 for, 3 against, 2 abstentions. The Mayor declared the proposal carried.**

**(b) SPC and CPG recommendations in respect of review of policy under Section 8.15 - Pedestrian Footpaths.**

Cllr Maxwell outlined the proposed amendment to policy under Section 8.15 Monaghan County Development Plan – pedestrian footpaths, as follows:

*“Where a development is proposed within or adjacent to the defined limit of a town or village, the developer shall be required to provide a pedestrian footpath along the entire site frontage. In addition, where it is considered that the proposed development would result in significant pedestrian traffic movements (ie developments involving 5 or more dwellings or equivalent), it shall be a requirement of the developer to provide a pedestrian footpath and public lighting which links the development to the existing footpath and public lighting which links the development to the existing footpath network or to the nearest community/social facility within the settlement as considered appropriate.*

*The detail and specification of the footpath and lighting shall be agreed with the planning authority but shall normally comply with the standards identified in the DMRB. The planning authority shall accept a reduced width of the footpath to be provided in circumstances where this would allow for the development and expansion of the settlement in accordance with policy SP2 of this plan.*

*The planning authority may accept a full financial contribution for the provision of this infrastructure where the authority considers that this is the appropriate mechanism.*

Cllr Maxwell stated that the SPC had sought the opinions of the Roads Engineers in relation to the proposed amendment. They suggested that the application of the current policy is less restrictive by giving the area engineers the discretion in terms of determining the adequacy of a footpath link. The engineers had stated that the proposed policy would be contrary to the Barcelona Declaration which this Council adopted in 2002 which caters for the mobility impaired. The Senior Engineer said, from a road safety point of view, a standard width of footpath is required with the minimum being 1.8 metres. The Engineering section said, the policy does not specify a width and it would be impossible to write a policy that would cover every scenario.

The current policy was proposed and formulated by the councillors and they were adamant that the policy would not be used to CPO. The developer has to ensure that they can provide water and sewerage for the development so why not ensure that they can provide a footpath.

Cllr Maxwell stated that the SPC believe there are 3 options open to the Council here today, but have not recommended an option.

1. Leave the current policy as is.
2. Remove the policy.
3. Amend the policy – to allow consideration of CPO for 3<sup>rd</sup> party lands to provide a footpath in exceptional circumstances where the developer has satisfactorily demonstrated that no other alternative exists.

Mr. David Fallon, Director of Services, said that there were two major issues to be considered (i) the safety of pedestrians and (ii) the Council do not have the resources to fund compulsory purchase orders to provide footpaths. He stated that the CPO legislation is draconian and it's unlikely that An Bord Pleanala would grant permission if there are other options available for acquiring land in the area.

The County Manager stated that CPO process gives power to a local authority to acquire land for roads, water, sewerage, etc. The Council would be reluctant to use it to acquire land to facilitate a private developer.

Mr. Adrian Hughes, Senior Planner, advised members that the variation deals with the reduction in footpath width from 1.8m to 1.5m. He referred to the current policy 8.15 which states "...the developer shall provide a full financial contribution in respect of this infrastructure provision where considered appropriate by the Planning Authority". He confirmed that a contribution can be sought from a developer if the Council is providing a footpath in a location which is of benefit to the developer.

*Cllr Bannigan proposed, Cllr Keenan seconded that the that the Council proceed to initiate procedures under the Planning and Development Act to amend the policy 8.15 in the County Development Plan 2007-2013 as follows:*

*"Where a development is proposed within or adjacent to the defined limit of a town or village, the developer shall be required to provide a pedestrian footpath along the entire site frontage. In addition, where it is considered that the proposed development would result in significant pedestrian traffic movements (ie developments involving 5 or more dwellings or equivalent), it shall be a requirement of the developer to provide a pedestrian footpath and public lighting which links the development to the existing footpath and public lighting which links the development to the existing footpath network or to the nearest community/social facility within the settlement as considered appropriate.*

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*The planning authority may accept a full financial contribution for the provision of this infrastructure where the authority considers that this is the appropriate mechanism.*

A roll call vote was taken on Cllr Bannigan's proposal which resulted as follows:

**For** – Cllrs Bannigan, Carville, Conlon, Crowe, Gallagher, Humphreys, Keelan, Keenan, Maxwell, B. McKenna, P. McKenna and Treanor. **Total 12.**

**Against:** Cllrs Coyle, McElvaney and McNally. **Total 3**

**Abstentions:** Cllrs Carthy, Kieran, Martin and McAnespie **Total 4**

**The Mayor declared Cllr Bannigan's proposal carried**

(c) SPC and CPG recommendations in respect of review of **policy under Section 8.4 - Separation between residential units and agricultural buildings.**

Cllr David Maxwell gave a brief outline of the existing policy and the proposed variation. He stated that the SPC had considered the proposal to vary the policy under Section 8.4 of the County Development Plan 2007-2013. The 100 metre rule applies in both rural and urban situations. In considering the proposed amendment the Committee had considered the following:-

- The policy does not promote development and sterilises land. An applicant who wants to develop 4 houses in a village has been stopped by a rival bidder as they installed 2 pigs in building adjoining this site.
- Should zoning not take account of existing farms, the current policy requires scrutiny and review. 25% of land within settlements will be sterilised with a 100 metre rule due to proximity of farms. What is a viable farm?
- Could the policy be designed to ensure that farm buildings are not on the boundary of an agriculture unit?

The EHOs recommend that the 100 metre distance should be retained. The Senior Engineer Environment stated that there is no legal requirement for 100 metre distance – however the EPA recommends that poultry units should be sited a distance of not less than 400 metres from the nearest neighbouring dwelling.

The SPC has recommended this revised policy as follows:-

*“A residential unit(s) shall not be permitted within 100 metres of an agricultural building(s), except where the owner and occupier of the agricultural building(s) has provided written consent to the Planning Authority to the construction of the residential unit(s) within 100 metres of his/her agricultural building(s). In such cases the written consent shall be signed by both parties and witnessed by a solicitor or other similar person.*

*It should be noted, that where planning permission is granted for a residential unit within 100 metres of an agricultural building(s) under the above and is located outside the defined settlement limits, a condition restricting occupancy to the applicant, members of their immediate family and their heirs shall be attached to any grant of permission.*

*Where the agricultural use of the building(s) has been clearly abandoned, the above policy shall not apply. There will be a general presumption by the Planning Authority that the use of an agricultural building(s) has not been abandoned unless proven contrary. It should be noted that the onus to prove that the agricultural use has been abandoned shall rest with the applicant.*

A debate followed during which a number of members stated that they would welcome any relaxation of the planning policy governing development in the vicinity of agricultural buildings, as in the past many young people had been unable to get planning permission because they could not meet the 100 metre stipulation. Members felt that this is a very complex variation and some expressed their concern regarding the shifting of onus from the planner to the farmer/landowner regarding the demonstration that the agricultural use of a building had been abandoned. A number of members called on the farming organisations in the county to make their views known if the proposal is put out for public consultation.

Mr. Martin Murray, Senior Engineer expressed the view that the proposed variation would probably lead to more enforcement issues from an environment point of view and would give rise to more complaints about noise and odour from agricultural activity.

*Cllr Maxwell proposed and Cllr Keenan seconded that the that the Council proceed to initiate procedures under the Planning and Development Act to amend the policy under Section 8.4 of the County Development Plan 2007-2013 - Separation between residential units and agricultural buildings, as follows:*

*“A residential unit(s) shall not be permitted within 100 metres of an agricultural building(s), except where the owner and occupier of the agricultural building(s) has provided written consent to the Planning Authority to the construction of the residential unit(s) within 100 metres of his/her agricultural building(s). In such cases the written consent shall be signed by both parties and witnessed by a solicitor or other similar person.*

*It should be noted, that where planning permission is granted for a residential unit within 100 metres of an agricultural building(s) under the above and is located outside the defined settlement limits, a condition restricting occupancy to the applicant, members of their immediate family and their heirs shall be attached to any grant of permission.*

*Where the agricultural use of the building(s) has been clearly abandoned, the above policy shall not apply. There will be a general presumption by the Planning Authority that the use of an agricultural building(s) has not been abandoned unless proven contrary. It should be noted that the onus to prove that the agricultural use has been abandoned shall rest with the applicant”*

A vote by show of hands resulted in 12 for 2 against and 3 abstentions. The Mayor declared Cllr Maxwell's proposal carried.

It was agreed to defer consideration of items 1 (d) review of Policy ENV16 – development in vicinity of lakes to the March Council meeting and item 1(e) – review of Section 3.5 – extent/delineation of rural areas under strong urban influence to the February Council meeting.

### **3. To consider Material Contravention to the Monaghan County Development Plan 2007-2013:**

The Members considered the report of Mr. D. Fallon, Director of Planning, dated 8<sup>th</sup> January 2009 in relation to the proposed variation to the County Development Plan 2007 – 2013 to grant planning permission for development at Tullygrimes, Monaghan (Ref 08/812).

*On the proposal of Cllr Gallagher, seconded by Cllr Maxwell it was unanimously agreed to approve a Material Contravention to the Monaghan County Development Plan 2007 – 2013, to grant planning permission for the development of two two storey semi detached dwellings at Tullygrimes, Monaghan, Ref. 08/812, as per the report of the Director of Services dated 8<sup>th</sup> January, 2009.*

#### **Monaghan Hospital:**

*On the proposal of Cllr Maxwell, seconded by Cllr it was agreed to extend the meeting to 2.00 p.m. to facilitate a discussion with the Oireachtas Members for the county in relation to Monaghan General Hospital.*

The Mayor welcomed Deputies Seymour Crawford, Margaret Conlon, Dr. Rory O'Hanlon and Caoimhghín Ó Caoláin to the meeting. He stated that their attendance arose out of a proposal at the December meeting that the leaders of Fianna Fail, Fine Gael and Sinn Fein and their health spokespersons be invited to a Council meeting to outline their policy in relation to health services and Monaghan Hospital. An Taoiseach and Mr. Enda Kenny had delegated this invitation to Deputies O'Hanlon, Conlon and Crawford. Mr. Gerry Adams was unable to be present but would notify another date to the Council and Deputy Ó Caoláin had accepted in his capacity as the Sinn Fein spokesperson on health. He thanked the Deputies and invited them to give a brief synopsis on where they stand on the issue of Monaghan Hospital.

Deputy Ó Caoláin made the following points

- Monaghan Hospital is facing further loss of services – the acute medical services currently at the hospital will transfer to Cavan on completion of the Medical Assessment Unit at the Cavan site.
- The Oireachtas members from the county are of one opinion that the existing level of acute medical service must remain in Monaghan General Hospital and they must continue to challenge the intent of the Government and the HSE in the centralisation of such services. Only a political change of will would see a change of the course currently being pursued.

- He appealed to all political views represented in the Council Chamber, particularly the representatives of those in Government to further aid the appeal of the TD's to secure a meeting with An Taoiseach. Regrettably requests made in the past have been diverted to the Minister for Health and he had no faith in Minister Harney heeding the 11<sup>th</sup> hour appeal. It is essential that An Taoiseach takes responsibility for this issue and give leadership and restore confidence.
- He assured those present that he was fully committed to the retention of acute medical services at Monaghan hospital.

Deputy O'Hanlon made the following points:

- The most important thing is that patient care must be to the forefront at all times.
- Whilst the Government makes the policy the Health Service Executive is charged with implementing it.
- Health care delivery has become much more sophisticated in recent times and it is not possible to have the level of quality of health services that are needed in every small hospital in the country. It is in the best interests of patients to travel to specialist services. He believed though that they had a state of the art acute medicine unit in Monaghan and it should be retained.
- Both he and Deputy Conlon had spoken to the Taoiseach recently and to Professor Drumm and HSE staff and had made the case for the retention of the unit in Monaghan to them. He had requested a further meeting with An Taoiseach which had been promised for next week at which the four TD's would be present.
- He was not happy with Navan being proposed as a venue for a new regional hospital but he didn't believe that this facility would be available for many years to come.
- He would continue to fight to ensure that the medical unit is retained in Monaghan.

Deputy Crawford made the following points:

- He apologised for the inability of Mr. Kenny and Mr. Reilly to attend the meeting and stated that both of them had visited the hospital on a number of occasions.
- Fine Gael had put its proposals for the hospital in writing and were committed to maintaining and improving services at the hospital should they be in a position to do so.
- During the last period when Monaghan hospital was off call approximately 17 people lost their lives unnecessarily.
- He believed that only the Taoiseach could change the position in relation to the hospital and ensure that acute medical services continue to be available there.
- At a meeting with HSE officials on December 14, at which all four deputies were present, Mr. Stephen Mulvany, made it quite clear that the only way that the current policy to wind down services at the hospital could be changed would be through a political decision.

Deputy Conlon made the following points:

- Deputy Conlon stated that she shared the concerns of the Councillors and those of her Oireachtas colleagues. Patient care must be to the forefront and no service should be removed from the hospital until a better service is in place. Transferring patients from an excellent medical unit at Monaghan hospital to trolleys in Cavan hospital is not a better service.
- While she welcomed the opening of the medical assessment unit at Cavan it needed a longer timespan and continued monitoring before it could be deemed to be a success.

She stated that enhanced ambulatory services and the introduction of primary care teams are welcomed but they did not substitute for the medical unit at the hospital.

- She stated that there is a huge role for Monaghan in the future and many day could now be carried out as day procedures which not long ago would have required a hospital stay of a number of days.
- She will continue to work with her colleagues in making the case for the retention of the medical unit at the hospital and particularly at the meeting with the Minister for Health scheduled for next week.

The Mayor then opened the debate up to the Members who made the following points:

- Patient care must come first – no service should leave Monaghan hospital until a better one is in place and has been proven to be operating successfully. Cavan or Drogheda cannot cope with the number of patients being transferred from Monaghan.
- They welcomed the enhanced ambulatory services and primary care teams but these don't replace acute medical services at Monaghan Hospital.
- Monaghan Hospital is still the guinea pig for the Hanly report despite the fact that the Minister for Health told the public that it had been shelved.
- They welcomed the fact that the four T.D.'s are putting forward a united front.
- Without a clear direction from Government or the Minister then the HSE will continue to implement policy. The Fianna Fail T.D.'s should relinquish the party whip in the Dail and tell their art they are not prepared to back the Government in votes unless services at Monaghan Hospital are secured – it's the only option left to ensure the survival of the hospital.
- All T.D.'s for the county should resign all together to ensure something is done about the hospital.
- Members were critical of the Green Party who appear to have abandoned the pledge made in relation to Monaghan Hospital before the last General election.
- Members called on the four T.D.'s to double their efforts to secure a meeting with the Minister for Health and the Taoiseach.
- The people of the county need access to hospital services in their own county including five day surgery. They want basis services, an assurance that they will be stabilised in Monaghan and moved on, if necessary. An A & E services from 9-5 is not sufficient.
- Why was money spent on a consultant's report for a regional hospital and no money for it.

The T.D.'s responded to the issues raised by the members.

Deputy Ó Caoláin stated that if he thought his resignation would contribute to the preservation of services at the hospital, then he would resign. He feels very strongly about the issue.

Deputy Crawford stated that if his resignation would solve the problem of Monaghan Hospital then he would do so.

