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**MIONTUAIRISCÍ NA CRUINNITHE SPEISIALTA PLEANÁLA DE COMHAIRLE  
CONTAE CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN  
CHONTAE, TRÁ LÍ, AR AN LUAN 13 EANAIR 2014.**

**MINUTES OF THE SPECIAL PLANNING MEETING OF KERRY COUNTY  
COUNCIL HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE,  
TRALEE ON MONDAY 13<sup>th</sup> JANUARY 2014.**

**PRESENT/I LÁTHAIR**

***Councillors/Comhairleoirí***

R. Beasley	J. Brassil	T. Buckley
M. Cahill	P Connor-Scarteen	S. Counihan
B. Cronin	J.J. Culloty	T. Ferris
J. Finucane	S. Fitzgerald	N. Foley
M. Gleeson	M. Griffin	D. Healy-Rae
J. Healy-Rae	P. Leahy	P. McCarthy
A. McEllistrim	T. O'Brien	B. O'Connell
P. O'Donoghue	L. Purtill	J. Sheahan
G. Wharton-Slaterry		

**IN ATTENDANCE/I LÁTHAIR**

Mr. T. Curran, Co. Manager	Mr. M. McMahon, Dir of Planning
Mr. J. Breen, Dir. Hsg. & Comm. & Ent	Mr. J.D. Flynn, Dir. Corp. Serv.
Mr. O. Ring, Dir. Env. & Water Serv.	Mr. C. O'Sullivan, Dir. of Ser. & Nat. Proc. Off.
Mr. G. MacNamara, D/Dir. of Roads	Mr. P. Stack, SE Planning
Mr. B. Looney, Head of IT	Ms. K. Lynch, AO Finance
Mr. G. O'Brien, Mtgs. Administrator	Ms. B. Reidy, S.S.O. Corp. Affairs

The meeting commenced at 10.35 am.

The Mayor, Cllr. S. Fitzgerald took the Chair.

**13.01.13.01 Draft Kerry County Council Development Plan 2015 – 2021**

**Members Duties under Ethics Legislation.**

Mayor Fitzgerald informed members that he wished to remind them of their duties under Part 15 (Ethics Framework) of the Local Government Act 2001 and the Code of Conduct for Councillors. He then read the following statement into the record of the meeting.

“Councillors should be aware that the onus for complying with the requirement of the Act and the Code of Conduct lies with each individual Councillor. Under the beneficial interest provision and should that provision apply, a Councillor must

- (1) Disclose the nature of his/her interest or the fact of a connected persons interest at the meeting and before discussion or consideration of the matter commences and
- (2) Withdraw from the meeting for so long as the matter is being discussed or considered, and accordingly, he/she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.”

In conclusion the Mayor informed members that there could be no interaction with members of the public during the meeting.

Mr. M. McMahon, Director of Planning informed the meeting the only item remaining to be dealt with is the Telecommunications Policy as set out in Sections 7.5.2 and 7.5.3 on Pages 130 and 131 of the Draft Plan. At the previous meeting a resolution was passed in relation to the separation distance. In the intervening period he examined the Draft County Development Plan and the current Plan and put before members suggested amendments which were circulated. Mr. McMahon said Section 7.5.2 and 7.5.3 should be adopted subject to the amendments agreed. He then briefed the meeting on the amendments required to the Draft County Development Plan as follows:

**(1) Section 7.5.2 (Pg. 130) – after the 3<sup>rd</sup> Bullet Point insert the following text:-**

Mr. McMahon said, as he set out at the previous meeting, since the enactment of the 2010 Planning Act when policies are being inserted into the County Development Plan which do not comply with legislation or guidelines members must state the reasons for the forming of the opinion and why it is not possible to fully implement the policies and objectives of the Minister as contained in the Telecommunications Antennae and Support Structure Guidelines for Planning Authorities 1996 (DoECLG) and Circular Letter PL 07/12. His Department suggested the following possible wording: *It is the policy of the Planning Authority that telecommunications masts shall not be located within 1 kilometre of residential properties, schools, hospitals or any structures where there is human occupancy for residential or daily work purposes.*

*The Planning Authority has formed the opinion that because of ..... It is not possible to fully implement the policies and objectives of the Minister as contained in the Telecommunications Antennae and Support Structure Guidelines for Planning Authorities 1996 (DoECLG) and Circular Letter PL 07/12. Members must include the reasons why the Plan does not comply with legislation and guidelines.*

Mr. McMahon said there are a few consequent amendments that will be required as follows:

- (2) Delete Ref. to Guidelines in ICT-1 (Pg. 131)**
- (3) New Wording on Pg. 9 in relation to Telecommunications guidelines, as follows:-**

Chapter 7 – Infrastructure had regard to the Guidelines and to Circular Letter PL07/12 except as outlined in Section 7.5.2 of this Plan.

- (4) Change introduction to Section 13.14 (Pg. 242)**

**Introductory text to be deleted and replaced by the following text:-**

Telcommunications Antennae and Support Infrastructure shall have regard to the following Standards.

In conclusion Mr. McMahon said these are the proposed amendments required to give effect to the resolution passed by members.

Cllr. P. McCarthy referred to previous discussions on the 1km rule and said he believed members needed to have a broader view on it. The 1km rule was introduced for health reasons but in his opinion it is doing the opposite.

Cllr. J. Healy-Rae said members voted in favour of including the 1km rule at the last meeting.

Mr. G. O'Brien, Meetings Administrator, said members voted not to adopt Paragraph 7.5.2 and 7.5.3 at the previous meeting pending an alternative proposal in relation to masts and antennae. Members must now state the reasons why the Plan does not comply with legislation and guidelines.

Cllr. M. Gleeson said it is for legitimate concerns for the health and safety of the community at large.

Cllr. J. Finucane said because of their visual impact and where there is damage to amenity. He suggested the following wording: It is the policy of this Council, in particular in areas where damage to the amenity value of an area or the visual impact on the environment is of such significance that it would damage potential development of the area that this Council would refuse permission for telecommunication masts. He suggested that these two practical reasons will be more effective than what is contained in the current County Development Plan.

Cllr. P. Connor Scarteen concurred with Cllr. Finucane's proposal in relation to visual amenity.

Cllr. D. Healy-Rae suggested the reason should be because of concerns for the health, safety and well being of the people of our community. Also the topography of the county lends itself to many elevated vantage points which can transmit the signal that are more than 1km from buildings, residences or community facilities. These elevated areas include Carrantuohill and Mangerton.

Mr. McMahon said Cllr. Finucane is now suggesting that the 1km rule would not be included in the new Plan.

Cllr. Finucane said the issue is with An Bord Pleanála making the members look superfluous.

Cllr. T. Ferris asked if Standing Orders state when a vote is taken it cannot be revisited for 6 months.

Mr. J.D. Flynn said Standing Orders refer to a resolution.

Mr. McMahon said in his opinion as members are considering a process which has not yet been completed he felt that was not relevant. He again drew members attention to Paragraph 7.5.2 and the third bullet point which reads:

*"Telecommunications antennae should be located so as to minimise any negative visual intrusion on the surrounding area, especially on landscapes or streetscapes of a sensitive nature. The preferred location for telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities."*

Mr. McMahon said landscape and amenity issues are already included in the Draft Plan but in the context of the 1km rule it is removed.

Cllr. J. Finucane PROPOSED that Cllr. Gleeson's wording would be included and this will give planners grounds to refuse permission.

Mr. McMahon said he needed wording to be included in the County Development Plan.

Cllr. D. Healy-Rae PROPOSED that the 1km rule be retained.

Mr. McMahon said he accepted the democratic decision. However, if members want to remove a paragraph from the Draft Plan and to incorporate the 1km rule in accordance with the 2010 Planning Act they must state the reasons why the Plan does not comply with the Guidelines.

Cllr. Gleeson said the concern expressed was for the physical and mental health of the community.

Mr. McMahon asked if the following wording reflects the member's wishes: "*The planning authority formed the opinion because of health and safety and the physical and mental wellbeing of the community.....*"

Members agreed this was acceptable.

Mr. G. O'Brien informed the meeting a vote would then be taken on Cllr. Gleeson's proposal as follows:- That we the members of Kerry County Council hereby resolve to amend Section 7.5.2 (Pg. 130) – after the 3<sup>rd</sup> Bullet Point insert the following text:-

*It is the policy of the Planning Authority that telecommunications masts shall not be located within 1 kilometre of residential properties, schools, hospitals or any structures where there is human occupancy for residential or daily work purposes.*

*The Planning Authority has formed the opinion that because of concerns regarding the physical and mental wellbeing and safety of the population of Kerry it is not possible to fully implant the policies and objectives of the Minister as contained in the Telecommunications Antennae and Support Structure Guidelines for Planning Authorities 1996 (DoECLG) and Circular Letter PL 07/12.*

This proposal was seconded by Cllr. J. Finucane.

Cllr. O'Donoghue asked the Director of Planning if he indicated this wording might not be acceptable.

Mr. McMahon said he brought a Circular Letter from Minister Jan O'Sullivan to member's attention where she indicated she has intervened in three County Development Plans to-date. Mr. McMahon said it is up to members to come up with the reasons why the Draft Plan does not comply with the Guidelines and he could not give members the wording.

Cllr. O'Donoghue said he felt on health and safety grounds would not be adequate and the visual aspect should be included also.

A vote was then taken on the proposal outlined by Mr. O'Brien which resulted as follows:

**For:** Cllrs. Beasley, Buckley, Cahill, Counihan, Cronin, Culloty, Ferris, Finucane, Foley, Gleeson, Griffin, D. Healy-Rae, J. Healy-Rae, Leahy, McEllistrim, O'Brien, O'Donoghue, Purtill, Sheahan, Wharton Slattery, Fitzgerald **(21)**

Special Planning Meeting

**Against:** Cllr. Brassil **(1)**

**Not Voting:** Cllr. McCarthy **(1)**

**Absent:** Cllrs. Connor-Scarteen, Donovan, O'Connell, O'Shea **(4)**

The Mayor declared the proposal CARRIED.

Mr. McMahon said that concluded consideration of the Draft County Development Plan. He sought members' approval to put it on public display.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. J. Healy-Rae it was unanimously agreed to place the Draft County Development Plan 2015 -2021 on public display.

Cllr. P. McCarthy congratulated the Council staff syndicate who would be on Winning Streak the following Saturday night and he wished them well.

The meeting concluded at 11am.

**Gerard O'Brien**  
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**Meetings Administrator**

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**Mayor of Kerry**