



**NOTIFICATION TO ATTEND MEETING OF THE FINANCE SPC
TO BE HELD IN THE COUNCIL CHAMBER, CITY HALL, DAME STREET, DUBLIN 2.,
ON THURSDAY, 21 JANUARY 2016 AT 3.30 PM**

AGENDA

THURSDAY, 21 JANUARY 2016

	PAGE
1 Minutes of meeting - 19th November 2015	1 - 6
2 Matters Arising	
a Release of Internal Audit Reports	
b Temple Bar Cultural Trust - update report to December City Council Meeting	7 - 10
c Pyrite Works - report from Peter Finnegan, Structural Engineer	11 - 14
3 Hotel Bed Tax	
a Update from meeting with Irish Tourist Industry Confederation (ITIC) and Irish Hotels Federation (IHF)	15 - 16
b Briefing Paper from ITIC and IHF	17 - 18
4 Lobbying Act - Transparency Code & Requirements	
Website Link: www.dublincity.ie/main-menu-your-council-about-dublin-city-council/regulation-lobbying-act-2015	
5 Audit Committee - Minutes of 24th September 2015	19 - 26
6 A.O.B.	

**Kathy Quinn Head of Finance
with responsibility for Information & Communications Technology**

This page is intentionally left blank

Finance & Emergency Services Strategic Policy Committee

Minutes of Meeting Held On 19th November 2015

1. Minutes of the meeting held on 17th September 2015

Minutes agreed. Minutes proposed by Cllr. P. Bourke and seconded by Cllr. N. Reilly.

Cllr. McGinley took the opportunity to welcome Joanna Piechota, Irish Polish Society, as the new elected community representative coming through the Public Participation Network election process.

2. Housing Loans – mortgage arrears – Presentation by Dr Daithi Downey, Housing & Residential Services Department

A presentation titled: Resolving Mortgage Arrears in Local Government: Towards sustainable forbearance arrangements was made to the Committee by D. Downey. It covered the areas of:

- a) DCC Mortgage Book at March 2015 dealing with accounts in arrears, types of loans, increases in arrears, analysis of medium to long term arrears, spatial distribution of arrears, unsustainable accounts and possessions.
- b) Research Study on DCC Shared Ownership covering the issues of quantitative and qualitative analysis of shared ownership arrears over a sample number of 476 households. It further dealt with average prices paid, average loans advanced, average duration of loans and arrears situation.
- c) DCC Forbearance under Mortgage Arrears Resolution Process (MARP) – providing a breakdown of the work undertaken.
- d) Household income and contractual housing costs and affordability
- e) Policy Development options for DCC and stakeholders specifically dealing with:
 - i) Mortgage holders who have unaffordable DCC mortgages, either in arrears or not, including options for debt-to-equity swap, progressive warehousing arrangements, arrears capitalisation and term extensions.
 - ii) More expansive mortgage to rent scheme for specific groups of mortgage holders.
 - iii) Options on annuity mortgages on a right-to-sell basis.
 - iv) Issues relating to repossession and voluntary surrender.
 - v) The future of DCC as a sub-prime mortgage finance provider.

In conclusion, D. Downey noted that feedback from elected representatives is sought to bring forward a policy debate on the various options and also to put a cost on the policy options.

Committee Members commended D. Downey on his very comprehensive and informative presentation. Contributions/queries were raised by the Committee on the following matters:

- Queries around the newly announced purchase scheme and DCC's involvement in this scheme.
- Queries around the status of the arrears position of the rental portion of mortgage holders currently in arrears on the shared ownership mortgage element of their repayment.
- Clarification was sought on the policy of having three mortgage application refusals prior to being eligible to seek a DCC shared ownership mortgage.
- Liability or otherwise of the outstanding management fees when they are taken back into the ownership of DCC.
- The status of families and the homeless accommodation options available to them when a property has been repossessed considering that only two families have come into the homeless section over the period under review.
- The liability status of the arrears for people who abandon their properties and their future housing needs.
- It was noted that mortgage arrears are stabilising.
- DCC should continue to be the provider of loans to people on very low income however the use of the term sub prime mortgage lender should be reviewed.

In response to these queries, D. Downey indicated that details on the incremental purchase scheme were not available and DCC have been advised that regulations are due out in January 2016 and the local government sector will most likely be considered to be the mortgage provider.

He clarified that use of the terms prime and sub prime is an international financial term to classify a borrower's application and previous refusal for a loan.

He noted that the two families presenting to the homeless services after repossession were assessed and rehoused in the private rented sector.

He confirmed that the arrears outstanding following repossession, either through court or voluntary possession, are discharged against the insured bond that was used to raise the finances. People who do not go through that process will still have the liability attached to their title because their title has not been discharged.

Regarding management fees, he noted that DCC would seek more expansive criteria of the mortgage to rent scheme which would include the outstanding management fees in the overall calculation.

3. Digital Hub Development Agency – Presentation by Gerry Macken, CEO

Gerry Macken, CEO, DHDA, made a presentation to the Committee regarding the work of the Digital Hub. This presentation covered:

- a) Background history to the Agency
- b) Overview of the work of the Hub
- c) Future developments
- d) Transition process to Dublin City Council – dissolution, enabling legislation, property and taxation issues

The Committee welcome the comprehensive presentation made by G. Macken and the work of the Digital Hub in the area. During the Q&A session the following points were noted:

- Development of retail space and the work around the increase in footfall in the area.
- The need for engagement by the Agency in the surrounding community and the fact that observations have been made to Councillors in the area that the residents do not feel connected to the work of the Digital Hub. In response G. Macken referred to the ongoing work within the community, local businesses, schools and senior citizen engagement through their liaison with the local area offices.
- The developments in the cold weather initiative in the area and the refurbishment of the former Cash and Carry building and the work undertaken.
- Student accommodation developments and concerns raised by local people.
- The importance of maintaining the distinct characteristics of the people from the area.
- The future planned accessibility and permeability of the buildings was welcomed.
- Queries were raised around the cost of the agency, staffing structure and board composition.
- Reference was made to the siting of the local employment office in the Agency's building.

4. Dublin Docklands Development Authority – Follow Up report

A summary report dealing with the various legacy issues relating to the forthcoming windup of the authority was circulated to the members. **Agreed:** It was agreed that the 2014 Final Accounts, when available, will be presented to the Committee.

5. DCC Bank Account Arrangements

A. Power presented a detailed report to the Committee covering the following issues:

- Current tender arrangements
- Contract agreement
- Interest, Fees and Charges
- Other Bank facilities
- Investments

The issuing of payments to groups/individuals via electronic transfer to accounts as an alternative to cheque payment was raised by Cllr. McGinley on behalf of Cllr. N. Ring. This related to Cllr. Ring's involvement with the 1916 Rising commemorations. K. Quinn clarified that it is a requirement that all payments are made electronically to bank accounts with limited exceptions made to this requirement. K. Quinn noted that she did not believe that this situation would be covered by the exceptions permitted. **Agreed:** K. Quinn to review if this particular group could be favourably considered for this exception due to the limited time period involved.

6. Regulation of Lobbying Act 2015

A briefing report and presentation were circulated to the members for information purposes. K. Quinn noted that the Strategic Policy Committees come under the scope of this new legislation and adherence to the transparency code by all members will fulfil their obligations.

A. Sweeney sought clarification around the roles of non-elected officials and their work around the SPCs but not formally for the SPCs. K. Quinn to review this issue and revert.

Agreed: At the suggestion of the Committee, it was agreed that if members have specific questions around this legislation, they should contact K. Quinn for clarification.

7. Audit Committee – minutes of meetings on 13th May and 3rd September 2015

Minutes noted. Cllr. M. Flynn referred to the issue of the circulation of audit reports to City Councillors. This request was considered by the Audit Committee at their meeting of 13th May 2015 and it was decided that the present arrangement of limited circulation should remain in place. Cllr Flynn considered that once an audit report has been considered by the Audit Committee, it should be circulated to the City Council. K. Quinn noted that, in considering this item, the Audit Committee felt that the councillor representation on the committee carried out this function on behalf of the wider City Council. Cllr. McGinley observed that if audit reports are subject to freedom of information legislation, the Audit Committee's decision is somewhat contradictory. **Agreed:** K. Quinn will raise this issue again with the Audit Committee at their next meeting.

8. Schedule of Meetings 2016

Schedule of dates was agreed. A requested was made by Cllr. Carr regarding the changing of the time of future meetings to earlier in the afternoon, possibly to 3pm, to deal with the number of presentations made. **Agreed:** the time allocation given to each presentation would be reviewed by the Chair for future meetings.

9. Motion from Cllrs. M Freehill, D. Lacey, B. Carr and R. Moynihan re Hotel Bed Tax

Cllr. M. Freehill and Cllr. B. Carr provided a synopsis of the motivation behind this motion:

- The current increase in tourist numbers,
- Lack of this tax in Dublin in comparison to European counterparts,
- The allocation of 50% of the potential income from this tax to the city's infrastructure and 50% of the income to a trust to directly fund artists work.
- The importance of the arts as an essential element of the attractiveness of the city.
- Reference was made to the current 9% VAT rate for the hospitality sector.
- The introduction of this tax would enable the City Council to work with the tourism and trading organisations for the betterment of the city.
- The importance of the arts for the city's tourism and economy.
- A minimum contribution from the sector would be something that overall the hotel sector and the City Council would benefit from and most importantly it would be something that the artists would benefit from.

Further comments from Committee Members were noted as follows:

- The need for a comprehensive discussion on this issue.
- Concerns raised on hotel costs during the recent Web Summit
- Clarification around the use of funding for infrastructural schemes, cultural or otherwise.
- The potential to have a wage to be paid to artists in the city.

- Expressions of concern that this motion runs contrary to other City Council initiatives to increase visitor numbers in recent times following improvement in the economy.
- Expressions of concern regarding this motion were noted as it was pointed out that not all hotels around Europe pay commercial rates or separate BID levies.
- Reference was made to the future capacity in the hotel sector in Dublin.
- With reference to revenue raising initiatives, it noted that €11m was handed back via the reduction in the Local Property Tax in the 2016 Budget.
- The issue of the lack of commercial rates reduction during the recent Budget 2016 process was noted.
- Significant debate on this issue was sought as a single item at a future meeting.
- Capital investment required to increase bed numbers.
- Dublin is the only capital city that does not have this tax.
- Hotel bed occupancy rates in Dublin currently stands at 85% which is the highest occupancy rate of a capital city in Europe at present.
- It was noted that pricing in the hotel sector has increased by 22% in the last 12 months.
- A verbal summary of previous work by the Committee on this issue back in 2001 was provided.
- The legal framework is not there at present to facilitate the introduction of this tax.
- The application of this tax to the arts is a logical proposals given the number of visitors making trips to the city to visit galleries, museums etc.

A report prepared by K. Quinn was circulated to the members. It summarised the background to this tax, the legislative basis of the community initiative scheme, rates liability in the accommodation sector, impact of the revaluation of the city, capacity issues, potential yield, resistance to a proposed hotel bed tax and potential next steps.

Cllr. Freehill, in reply to the above comments, welcomed the discussion and interest in this motion. She agreed with the need for further investigation of this proposal and engagement with the relevant partners. She further referenced the work that is being undertaken in Galway City Council in conjunction with the western tourism sector and the hotel sector. She acknowledged the capacity issues in the sector but said they are two separate issues. Regarding revenue generation she noted that what would be potentially charged as a tax would be what the market could bear. In clarification, she noted that the trust of the funding would be administered by the Arts Officer in DCC in conjunction with the Arts Council for balance.

In reply to the previous contributions, Cllr. Carr noted that the shortage of beds in the city indicates the high demand by visitors to the city so therefore feels that a 2% increase is not going to impact on that. He further stated that the hotel sector is the only industry that has not entered into an REA on behalf of the employees.

Agreed: In conclusion, it was agreed that a further report to the next meeting would be prepared covering the following: i) the legal standing of this tax ii) the work being undertaken in Galway City Council should be investigated iii) further analysis on what is being charged in other cities iv) charging structures in other cities i.e. rates, BID levies etc. This should be listed as the first item on the agenda of the next meeting.

10. Motion from Cllr. M. Flynn re Temple Bar Cultural Trust Tenants

A report from Brendan Kenny, ACE, was circulated to the members on this issue. K. Quinn report that it has been noted that discussions on this issue are ongoing and it is anticipated that an updated report will go to the City Council for the December meeting. Cllr. Flynn spoke about the treatment of the tenants as a result of an ill-informed motion that was passed through the City Council. He referenced the need for transparency and openness on an issue like this.

Signed: Councillor Ruairi McGinley
Chairperson

Date: 19th November 2015

Attendance:

Members

Councillor Ruairi McGinley (Chairperson)
Councillor Paddy Bourke
Councillor Brendan Carr
Councillor Paddy McCartan
Councillor Noeleen Reilly
Councillor Brid Smith
Councillor Micheál MacDonncha
Dr. Caroline McMullan, DCU
David Brennan, DCBA
Aidan Sweeney, IBEC
Joanna Piechota, Irish Polish Society

Councillors – Non Members

Cllr. Mary Freehill
Cllr. Mannix Flynn

Guest Speaker

Gerry Macken, CEO, Digital Hub Development Agency

Officials

Kathy Quinn, Head of Finance
Antoinette Power, Head of Financial Accounting
Dr Daithi Downey, Housing & Residential Services Dept
Una Joyce, Housing and Residential Services Dept.
Fiona Murphy, Senior Staff Officer, Finance Secretariat
Fiona Collins, A/Assistant Staff Officer, Finance Secretariat
Lisa Nolan, Staff Officer (Secretarial)

Apologies

Gina Quin, Dublin Chamber of Commerce
Councillor Larry O'Toole
Councillor Nial Ring
Councillor Tom Brabazon
Councillor Dermot Lacey
Councillor Ray McAdam
Eric Fleming, ICTU

Press

Olivia Kelly, Irish Times

Report on Temple Bar Cultural Trust

In April 2013 a decision was made by the previous board of Temple Bar Cultural Trust that its functions, responsibilities and assets should be transferred to Dublin City Council. This decision was accepted by Dublin City Council. It followed on from various reviews of the Trust that exposed serious deficits on a range of governance issues.

Since then a transition process has been in place to continue the functional and the legal responsibilities of Temple Bar Cultural Trust, to implement the dissolution of TBCT, to address the issues highlighted in the reviews and to ultimately transfer full responsibility etc to Dublin City Council.

The Dublin City Council transition team of six staff are now responsible for the day to day operations of the Trust. (This compares to 18 staff previously employed by TBCT). It is led by John Durkan and he has followed up on the initial transition work carried out by Ray Yeates Interim CEO. This project team is now based in the Civic Offices and the "Culture Box" premises which was previously occupied by Temple Bar Cultural Trust has been freed up for lease to a cultural organisation. There is no longer any former TBCT staff employed.

The Board (Trustees) of the Temple Bar Cultural Trust for the Interim period of transition now consists of:

Brendan Kenny, Deputy Chief Executive - Director and CEO of TBCT

Jim Keogan, Assistant Chief Executive - Director and Chairperson of TBCT

Mannix Flynn, City Councillor and Director of TBCT.

The role of this Board together with the special DCC project team is to carry out the full legal and operational responsibility of the TBCT Company until it is dissolved by the necessary legislation.

It had been anticipated that such a dissolution would be completed by now and the relevant "Heads of a bill" have been agreed for some time however it now appears that the required legislation will not be finalised until early 2016.

Significant progress has been made in re-building relationships with the main stakeholders and in stabilising the area with the introduction of several new commercial property tenants into the West End area of Temple Bar.

A consultant was engaged to talk with the cultural agencies in the area, to gauge their concerns and ideas on how the City Council can support their cultural provision into the future. Dublin City Council had already reiterated its full commitment to remain as the landlord of the cultural organisations in Temple Bar.

Internal approval processes and authorisations now mirror those of DCC. The Board rotated the external auditors and KPMG assisted the company complete all its statutory requirements and filing with the CRO. The maintenance function is now provided by the City Council's civic maintenance operation, which assists the project team in resolving all maintenance issues promptly.

In addition DCC has taken in charge (July 2015) Curved Street, Cows Lane, MHS and Temple bar square. Street furniture licenses for these streets are now managed by the City Council. Draft changes to the Casual Trading by-laws are now prepared for presentation to City Councillors, to absorb the three TBCT markets and their related activities. A tender process recently secured a Markets Manager to manage the three market areas in Meeting House Square, Cow's Lane and Temple Bar Square. This Markets Manager will liaise with Temple Bar Cultural Trust and incorporate the requirements and conditions of the Casual Trading Act 1995 and the Casual Trading Bye Laws 2013 into all aspects of the markets.

All legacy issues with the construction and maintenance of the Umbrellas on Meeting Housing Square (MHS) are now resolved. The Temple-bar project team are working to put in place a maintenance contract for the Umbrellas and to secure by Tender a contractor to manage both the bookings on MHS and provide a programme of events, specifically to attract families into the Temple-Bar. In addition TBCT continue to fund the cost of Culture night by way of a grant of 105,000 euro.

The Board of Temple Bar Cultural Trust and the transition team have resolved all outstanding legal issues with property management companies and cultural agencies. The Temple-bar project team are working through other legacy issues to complete a 50/50 shareholding agreement with the Contemporary Music centre and complete a new cultural use agreement.

Agreement has been reached with The Ark for use of the stage for events held at the Square and to implement the recommendations of a Fire Certificate for the Film-base premises in addressing a number of fire issues.

Property owned by TBCT

With the successful resolution of the several legacy issues and very good progress on the overall transitional process of transferring assets, functions and responsibilities to Dublin City Council (albeit still awaiting the required legislation on dissolution of TBCT) it was important for the Board of TBCT to consider options for its property portfolio in particular the commercial properties. Following approval of the Board the commercial property at 43-44 Temple Bar (attached to the Temple Bar Pub) was sold at the end of 2014 for a sum of 3.25 million euro.

This sum was used by TBCT to clear all outstanding debts, loans, overdraft, plus all legal costs and voluntary redundancy payments relating to previous staff members of TBCT. In addition a sum of 1 million euro has been set aside from the proceeds of this sale as a future contribution to a much needed Public Domain programme of works in Temple Bar, e.g. Footpaths, Cobble lock Areas, Greening, Lighting etc. A Public Domain Improvement plan is currently being formulated by the City Council and a Consultant has been commissioned.

Following on from the sale of the above property the Board of TBCT agreed to push ahead with the sale of the of remaining commercial properties in particular those situated on the West End of Temple Bar. These properties were constructed about 20 years ago in association with the provision of a significant amount of residential accommodation. They are all small bespoke retail units. In recent years some of the Tenants had expressed their wish to purchase their premises with a view to consolidating their long term presence in Temple Bar.

Initially it had been planned to place all of these (25) properties on the open market but following an intervention from current tenants it was agreed that they would have an opportunity for "first refusal". All 25 existing tenants were invited by TBCT through Lisney Estate Agents to purchase at full current market value. The purchase prices for the individual units range from 80,000 euro to 520,000 euro amounting to a potential total amount of 5.9 million euro.

The process of "first refusal" was open for a fixed period (mid November) and 12 tenants did express interest but it appears that only 6 and possibly 8 existing tenants have the capacity to purchase. Once the period of providing a "first refusal" opportunity to existing tenants expires, it had been intended to put the remaining properties on the market for sale either in a single batch, in a number of batches or on an individual basis.

As TBCT is selling the Leasehold Interest in these properties rather than in Fee Simple the rights of the tenants under the lease do not change and they continue to have a right to negotiate a renewal of their lease. They simply become tenants of a new/different landlord. If rental costs increase in the future then it would be in line with increases likely to be sought by TBCT/DCC if it continues to be the landlord.

In relation to possible changes of business use for these properties in the future, it is important to note that they are all small bespoke units on the ground floor of residential accommodation thus restricting future expansion etc. Also planning permission from Dublin City Council would be required for many types of changes in business use.

In addition it is possible for Dublin City Council to insert a change of use covenant into the leases being transferred, however such a covenant would reduce the market value of the properties.

The rationale for the sale of these properties and the use of proceeds is around the following:

- Should Dublin City Council (after takeover) continue in the business of being a landlord of commercial properties in Temple Bar.
- The TBCT transition process will leave the finances and operation of Temple Bar in good shape together with a capital fund in the bank to be spent in Temple Bar.
- That the ongoing rental income from all TBCT properties in Temple Bar would be insufficient to deal with ongoing maintenance (sinking fund etc) of the leased properties and the public domain in this area whereas a once off capital fund from the proposed sales would deliver much greater benefits.
- A capital fund would allow for some necessary structural works (create a sinking fund) to be carried out on the existing cultural buildings in the area.
- A capital fund would allow DCC to develop and implement a comprehensive programme of works on the general public domain areas of Temple Bar.
- A capital fund could provide an opportunity for Dublin City Council to acquire other key sites or property in Temple Bar for cultural, tech, or enterprise purposes.

The proposed sale by Temple Bar Cultural Trust of its commercial properties was discussed at the October meeting of the South East Area Committee and based on concerns raised by Councillors a report was submitted to the November City Council meeting which set out the background and rationale behind the proposal with the recommendation that the sale of the properties where the existing Tenants are getting "first refusal" offers should proceed and be finalised, and that the remaining commercial properties on the West End of Temple be placed on the open market for sale. It was further proposed to offer the units for sale on an individual basis rather than in one or more bundles.

Two Motions from Councillors on the issue were submitted and approved unanimously to the effect that none of the proposed sales should go ahead.

Subsequently The Board of the Temple Bar Cultural Trust met and considered the implications of this decision. The Board agreed that in line with the decision of Councillors the properties in question will not now be placed on the open market for sale and that any future such proposal will only be considered if approved by City Councillors.

However the Temple Bar Cultural Trust had agreed sometime ago that prior to placing the properties on the open market for sale the existing lessees would have a once off opportunity of having "First Refusal" on acquiring their premises on the basis that some (many with a long-term presence) wish to consolidate and invest in their current business. The Board of Temple Bar Cultural Trust considers that it would be very unfair at this stage to stop these particular sales from proceeding and that a strong legitimate expectation had been created for these existing tenants.

The overall dissolution of Temple Bar Cultural Trust though primary legislation is progressing, is agreed with the Department of the Environment and should be finalised early in the 2016. Following this all property currently owned by TBCT will be transferred into the ownership of Dublin City Council and will then be dealt with in line with policy and procedures on existing Council property e.g. disposals will be by way of Section 183 of the Local Government Act, 2001 (Reserved Function). Executive responsibility will rest with the Development Department of the City Council reporting into the relevant Area Committees and the Planning and Development SPC.

It is now proposed that:

- The placing of all TBCT commercial properties on the open market for sale will not proceed and such a proposal to sell will be a matter for Dublin City Council following the dissolution of TBCT.
- The offer by TBCT of a once off first refusal purchase opportunity for a small number of interested lessees should proceed.
- The proceeds of these sales will be held by the Trust to be invested in Temple Bar but subject to the approval of Dublin City Councillors on how it is to be spent.
- The Trust will formulate Terms of Reference (to be approved by the City Council) for the commissioning of a comprehensive report on a new vision and master plan for the Temple Bar Area.
- A Steering Group comprising of the Trust and members of the Arts and Economic Development Strategic Policy Committees will be established to oversee the above commission.

Brendan Kenny
Assistant Chief Executive (DCC)
and CEO of Temple Bar Cultural Trust

Jim Keogan
Assistant Chief Executive (DCC)
& Chair of Temple Bar Cultural Trust

Dated : 26th November 2015



MEMO

MEAMRAM

Structural Engineering Section, City Architects Division,
Civic Offices, Wood Quay, Dublin 8

Rannóg um Innealtóireacht Foirgníochta, Rannóg Ailtire na Cathrach,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8
T. 01 222 5095 F. 01 222 2999 E. peter.finnegan@dublincity.ie

12th January 2016

Re: Pyrite situation within Dublin City Council

The following is a summary of the Pyrite situation as it affects Dublin City Council housing projects. This does not include any reference to private housing in the DCC area as DCC has no role in such dwellings. All prices exclude VAT.

Avila Park phase 4 community centre

Community centre for Travellers in Finglas. Built c 2005 by Tara Construction. 6 houses built at same time already remediated in 2012 at a cost of €745,000. Pyrite discovered in 2008. Community centre not remediated yet, currently vacant. Tenders in 2015 returned at €331,000. No approval to proceed yet.

Griffith Heights

35 Affordable dwellings, 15 social dwellings, 33 Senior Citizens dwellings and community centre

Built c 2004/2005 by Noreside Construction. Pyrite discovered in 2008.

DCC has undertaken to remediate the 35 houses. Remedial works have taken place in 13 houses at a cost of approx €720,000. This figure includes for repairs to footpaths and driveways within the curtilage of the dwellings, and for public footpaths. Tender issued for the remaining 22 houses recently, and it is hoped to complete them in 2016. Estimated cost of this work is €1.2m. This will include repairs to the footpaths around 15 houses at Griffith Close. Mediator appointed by parties to resolve the dispute between contractor and DCC. When a settlement was not reached, DCC referred the matter to arbitration. Parties agreed to mediate again in attempt to resolve the dispute. An attempt was made to have their insurers fund the remediation.

Ballybough/Poplar Row/Taaffes Place Phase 2

33 dwellings in mixed 2 storey, 3 storey and duplex.

Built 2007 by Glenman Corporation. Pyrite discovered in 2010

Remediation works for 19 ground floor units are on site at present, and due to finish by end 2015.

DCC will seek to recoup costs which are likely to be in the region of €1m excl. VAT.

Valeview Crescent, Finglas

Two houses built on infill land. Built c 2005 by Togail/AMDL. Pyrite confirmed 2011.

Remediated in 2014 at a cost of €82,000.

DCC carried out completion works on these houses following the demise of Togail (Housing Association) and AMDL (building contractor). No possibility of pursuing a dispute in this instance.

Tolka Valley View

22 houses, community centre and 27 senior citizens dwellings.

Developed by Respond housing association, and managed by them. DCC did not engage design team or contractor. Severe damage to footpaths. Worst areas of footpath were temporarily repaired by DCC in late 2013. Note that Respond are taking the view that this is a DCC development and that DCC are responsible. DCC have carried out temporary repairs on the footpaths without prejudice at a cost of approx. €10,000.

BRL 4 houses at Owensilla Terrace and 2 at Balbutcher Way

BRL development

Tenders returned in Summer 2015 for remedial works to 6 houses for €255,000. Alternative accommodation unavailable at that time, but should be ready for Jan 2016. Both sites were BRL developments where the original contractor had ceased trading and the houses were completed by others. No possibility of pursuing a dispute in this instance.

Ballymun Sillogue 3b (Owensilla) (see site map)

58 dwellings, built by Glenman Corporation, completed 2008.

Four houses affected by pyrite. Estimated cost of remediation €200,000.

Ballymun Poppintree 5b (Carton) (see site map)

90 dwellings, built by Glenman Corporation, completed 2007.

Awarded to DBFL Consulting Engineers to prepare remediation contract. Surveys underway at present for preliminary information. Anticipated tender in early 2016, anticipated completion date by end 2017. I expect that approx. 40 houses will require remediation at an estimated cost of approx. €2m. DCC will gather the necessary information to pursue a dispute with the contractor.

Belmayne

Large private development. Developer was Stanley Holdings, may be more than one builder

DCC own 17 units with ground supported floors that are affected by pyrite. Claims have been initiated with Premier Guarantee.

Carleton Hall, Marino

Community hall, crèche and 4 apartments (2 over 2)

Builder was Tara Construction.

This is a small mixed use development in Marino that is owned by DCC, but leased to local groups including a housing association (Cluid). Four apartments, a crèche and a community hall are affected. Two ground floor apartments are currently vacant due to excessive damage. Cost will be approx €140k to remediate these apartments.

Estimated cost of remedial works to hall and crèche approx. €400,000 excluding any fees for a design team.

Extension to 7A Avila Gardens

This is a pyrite damaged extension to a travellers housing in Finglas. Will probably be remediated in 2016, but work not commenced yet.

Recurring Issues

In deciding whether or not to pursue a claim the following issues recur:

- Contractor's financial status.
- Insurance.
- Longevity.
- Costs.
- Certainty.

Contractor's financial status and insurance

Many contractors in serious financial difficulty – close to liquidation – difficulty in funding dispute resolution process or remediation. If contractor goes into liquidation then DCC loses opportunity of obtaining an enforceable judgement / award against contractor. DCC not have any contractual link with contractor's insurer or quarry. No 'Third party liability against insurers Act' in Ireland. Effect - DCC cannot proceed to recover against contractor's insurer of its own accord. Insurer only pay when contractor has sustained a loss, that is, final court judgment or arbitrator's Award against the contractor.

Longevity and costs

Insurance companies may step in to defend the claim on behalf of the insured as they do not wish to have a judgment or arbitrator's award finding that the terms of their insurance policy cover defects caused by pyrite. They are willing to spend enormous sums defending such claims. Further, any case advanced would have to pass two hurdles, (1) that the damage caused by the pyrite is recoverable under the policy and (2) that the damage caused is in fact due to the presence of pyrite. In relation to (2), instances of poor workmanship can obscure the actual cause of the defect sufficient to "muddy the waters" as to whether pyrite is, in fact, the cause.

Certainty

The issue as to whether damage caused by pyrite is recoverable under the relevant insurance policies is complicated and substantial costs may be spent in arriving at a finding, which is only the first step in recovery. The priority is often to have the remediation works carried out as efficiently and expeditiously as possible. DCC is also under a duty to mitigate its loss.

Peter Finnegan
Senior Structural Engineer

Briefing Note of Meeting held on 12th January 2016 at 12pm

Re: Hotel Bed Tax

Attended by: Eoghan O'Mara-Walsh, CEO, Irish Tourist Industry Confederation (ITIC),
Tim Fenn, CEO Irish Hotels Federation (IHF),

Councillor Ruairí McGinley, Chairman, Finance & Emergency Services Strategic Policy Committee,
Kathy Quinn, Head of Finance, Dublin City Council

The meeting was held following a request by the ITIC and the IHF. The purpose of the meeting was to discuss the motion tabled by Councillors Freehill, Lacey, Carr and Moynihan relating to a hotel bed night tax. The meeting commenced at 12.00pm and concluded at 1.10pm. It was held in the Finance Department, Floor 8, Block 1, Civic Offices. A joint ITIC/IHF written submission was provided in hard copy at the meeting.

The following issues were discussed:

- Impact of the recession on the hotel and tourism industry. The industry is only now approaching the bed rates which applied in 2006/2007.
- Concern that the introduction of bed tax will interfere with hotel business model such that investment in new capacity will not happen – there are still severe difficulties in attracting investment capital and diligence criteria very demanding – currently 105 hotels in Dublin City.
- Dublin is a difficult to access location, reliant on air access and that we are positioned as a high cost / high value location. Business model is cost sensitive both for tourists and hotel operators – costs are already moving up in area of salaries which hotels are having to pay to retain and attract staff in 2016.
- The industry cost base has increased through market rises in pay costs and also through the implementation of the increased minimum wage.
- Payroll costs represent between 38% and 45% of all hotel related costs.
- Importance of a net positive outcome from the potential introduction of a hotel bed night tax was emphasised, with a priority on maintaining or increasing employment.
- The Finance SPC was central in the introduction of BIDs and previous engagement on this issue (hotel bed tax) in 2001.
- Mention was made of hotels being very unhappy at paying into BIDs on tops of own marketing spend. An instance was Westin hotel paying in order of €12k into BIDs on top of significant commercial rates.

- Mention was made of hotels spending €25m on marketing of Dublin City – they are more effective at managing this spend than other agencies. 85% of Ireland tourist business originates or ends in Dublin.
- Application of proceeds of potential tax could be made to events and public realm related projects.
- Value of rates paid to DCC by the hotel sector and the impact of the revaluation process.
- There is a critical limitation on hotel capacity. No new hotels have been commissioned for many years and as a consequence supply is far below demand.
- Limited demand may lead to congestion experienced by tourists which in turn could be alleviated through the use of hotel bed tax funds.
- Mention was made of New York hotel bed tax. Query arose of quoting room rates which must be all inclusive – software issues to separately account for any charge.
- A proposal to introduce a hotel bed tax in Scotland has now fallen.
- Discussion was also had on nature of visitor experience once they step outside of hotel door on to streets of Dublin.
- The hotel and tourism industries share concerns that the application of a charge now might dissuade investment in the commissioning of new hotel capacity, which is critically required.
- The level of VAT in other jurisdictions was referenced and that the tourist industry in Ireland now enjoys an arrangement (at 9%) similar to that of most other European countries.
- The tourism and hotel industries are key employers, with one in 5 of all new jobs created since 2011 being in tourism related employment.
- Consideration will be given to evaluating the feasibility of a charge which does not impact on overall profitability and provides a stable annual income source from which projects can be funded which will deepen the benefits from tourism. It was referenced that a target is that more businesses should benefit from the tourist spend, assisted through the funding of events and public domain works.
- The Finance SPC would require to secure the support of the Departments of the Environment, Community and Local Government and Finance to introduce the necessary enabling legislation for the introduction of a hotel bed tax.
- The next meeting of the Finance SPC is scheduled for 21st January 2016.

Attendees were advised that a record of the meeting would be brought to the attention of the Strategic Policy Committee and read in to the record of the SPC's next meeting. Minutes of SPC meetings are freely available in compliance with the transparency code of the Lobbying Act.

January 12th 2016

Re: Proposed motion to the Finance & Emergency Services Strategic Policy Committee (SPC) to introduce a hotel bed night tax

Briefing Paper

In a follow up to our briefing paper of November 17th 2015, the Irish Tourist Industry Confederation (ITIC) and the Irish Hotels Federation (IHF) wish to re-iterate their objection to the motion to introduce a '2% hotel bed night tax' due to be put to the Finance & Emergency Services SPC on Thursday 21st January. In our view such an action would cause significant damage to jobs, investment, and the tourism sector in Dublin.

Context

Tourism into Ireland is performing well again after the worst recession the industry has ever experienced. The government has set an ambitious target of 10 million international visitors to Ireland spending €5 billion by 2025. According to Fáilte Ireland 4.5 million international visitors came to Dublin in 2015 and this generated €2 billion to the city's economy with 25% being returned to the exchequer in taxation. 1 in 9 new jobs throughout the city are within the tourism and hospitality sector and indeed 20% of all new jobs created since 2011 have been in tourism.

However, recovery is fragile and there are specific issues within the Dublin hotel sector that need to be carefully considered.

Challenges

Capacity

There is a significant capacity problem within the hotel sector in Dublin. It is estimated that between 3,000 and 5,000 additional bedrooms are required in Dublin city in order to meet projected demand. New hotel development is urgently required for the city to realise its tourism potential. The costs of construction and operating hotels are significant and considerably more expensive than commercial property or residential construction. The introduction of an additional tax risks deterring badly needed investment.

Maintaining competitiveness

Remaining competitive is critical to the success of tourism into Dublin. In terms of running a business, Ireland is already currently ranked more expensive than 10 competitor destinations in Europe and many cost inputs for hotels in the city are under increasing upward pressures including labour and utility costs. It is vital also given the high level of on-going wear and tear in hotels that the industry continues to invest in maintaining the quality of product. A new bed tax would add to the cost of doing business in Dublin and divert much needed funds away from payroll, marketing and repairs and renewals. Ireland's tourism Vat rate at 9% is now on a par with its European peers and this has helped improve our competitiveness. Introducing a bed tax would add cost to Dublin's tourism offering at a time when it is vital to maintain competitiveness and offer value for money.

Current contribution of hotel sector

The rates bill to Dublin city hotels was €15.1 million across 105 properties in 2015. This is a significant contribution and on top of this there is an additional 4% BID levy paid by city centre hotels. Prior to the revaluation process effective from 1st January 2014 Dublin City hotels significantly over-paid on rates to the tune of €18.2 million per annum.

Marketing of Dublin City

The IHF estimate that Dublin city hotels pay over €25 million per annum marketing their properties and therefore the capital city as a leisure and business destination. This is an enormous contribution to destination marketing and the city benefits as a result. Furthermore the Dublin Branch of the IHF are contributing €300,000 per annum to the new city tourism brand – *Dublin, A Breath of Fresh Air* – in a collaborative approach with local authorities and Fáilte Ireland.

Inequitable nature

A bed tax by its very nature is only imposed on accommodation providers. To that end it is inequitable as tourism to Dublin benefits a whole range of businesses from tour companies, visitor attractions, retailers, restaurants, coach operators and many more. To specifically target one sector is unfair and will apply upward pressure on hotel prices.

Conclusion

Tourism is a vital component to Dublin city's economy and many jobs depend on the success of the sector. Fáilte Ireland estimate that every 55 international tourists support 1 job. Recovery in the sector is fragile and largely driven by external factors such as improving economies in Ireland's key source markets, favourable exchange rates, and increased air lift. The competitiveness of the industry remains vital and a bed tax on hotel accommodation is likely to deter new investment and increase prices thereby damaging prospects for jobs in the city. Hotels already contribute significant sums in terms of rates and marketing contributions and a hotel bed tax, as well as being an inequitable instrument, is likely to damage the industry and effect employment and economic growth. Both the Irish Tourist Industry Confederation and the Irish Hotels Federation are strongly opposed to such a measure for the reasons outlined in this short submission.

There is significant potential for further tourism growth in Dublin but only if the right national and local policies are pursued.

For further information contact:

Eoghan O'Mara Walsh, Chief Executive, ITIC. Tel: 086-6057909, E: eoghan@itic.ie
Tim Fenn, Chief Executive, IHF: Tel: 087-2231972, E: fennt@ihf.ie

The Irish Tourist Industry Confederation (www.itic.ie) is the umbrella group that represents the leading tourism interests throughout Dublin and Ireland while the Irish Hotels Federation (www.ihf.ie) is the representative body for hotels and guesthouses in Ireland.

Dublin City Council

Audit Committee

Minutes of Meeting held on 24th September 2015 at 8.00 a.m.
in the Members Room City Hall

Attendance:

Members

Mr. Brendan Foster, Dublin Chamber of Commerce, Chairperson
Mr. Johnny McElhinney, Dublin Business Forum
Councillor Naoise O Muiri
Councillor Nial Ring
Councillor Noeleen Reilly
Ms. Louise Ryan, TCD
Professor Marann Byrne, DCU

Officials:

Ms. Kathy Quinn, Head of Finance
Mr. Hugh Fitzpatrick, Head of Internal Audit
Ms. Córa Dervan, Clerical Officer, Internal Audit
Ms. Theresa Lannon, Administrative Officer, Internal Audit

Apologies:

Mr Owen Keegan, Chief Executive, Dublin City Council

1. Standing Item on the agenda – Any Conflict of Interest of A.C. Members

No conflict of interest declared by members

2. Minutes of Audit Committee Meeting held on 13th May and 3rd September 2015

Both sets of minutes were agreed. It was also agreed to continue to monitor the schedule of actions so as not to miss anything and hopefully this structure will work. The Chief Executive had forwarded an update to the Actions 5 and 6 agreed at the February 2015 meeting in relation to Dublin City Council's 'Insurance Arrangements' which was circulated at the meeting. Update noted. The Audit Committee did not require a copy of the 'Terms of Reference' for either study.

Action 1: Actions agreed at previous Audit Committee meetings and not dealt with to date, to be carried forward to the December meeting. **(HF)**

Action 2: The Chief Executive to advise the Audit Committee on the outcome of both studies i.e. (a) review of the City Council's approach to risk taking/insurance by Willis Ltd and (b) A 'Value for Money' review of 'Irish Public Bodies Insurance' by Price Waterhouse Cooper.

3. Draft Report from the Audit Committee to the City Council following its consideration of the Local Government Auditor's report and the Audited Annual Financial Statement of DCC for the year ended 31st December 2014

Draft report agreed.

Action 3: Mr Fitzpatrick to submit same to the Chief Executive's Office for inclusion as an agenda item for the October City Council meeting.

4. Update on review of Corporate Risk Register from Ms Mary Pyne, Head of Human Resources & Corporate Services

Ms Pyne updated the Committee on progress made in relation to 'Risk Management' since her last update at the May meeting (a written report was then circulated at the meeting).

It was noted that Dublin City Council had engaged Ernst & Young to carry out a review of the Risk Management Framework within Dublin City Council. The review is expected to be completed by the end of the year and Ms Pyne assured the members that the issues raised by them previously in relation to risk management would feed into the review. Ms Pyne suggested that an interim report could be brought to the Audit Committee for the next meeting in December and also that perhaps the Chairperson might like to meet with the consultants. The Chairperson stated that he would be happy to do so and the review was welcomed by the Committee.

Action 4: Interim report on 'Risk Management' from Ernst & Young to be submitted to the Audit Committee for consideration (December meeting) (Mary Pyne).

5. Report from Ms Antoinette Power, Head of Financial Accounting – Accounting for the transfer of Water Services Functions to Irish Water in the 2014 Financial Statements (AFS) of Dublin City Council

Ms Antoinette Power went down through her report item by item and the following were some of the more salient points noted:

- (a) The Water Services Act 2014 states that the transfer of property is not a disposal but a statutory transfer. Consequently the consent of the elected Council was not required.
- (b) A balancing statement was agreed with them in relation to the assets on Dublin City Council's books to be transferred to Irish Water. However, the bad debt policy was agreed between the Department of the Environment, Community and Local Government and Irish Water i.e. €7m was written off (values were depressed). Unilateral decision made regarding our debtors resulting in Irish Water owing Dublin City Council €8.2m at 31.12.2013.

- (c) The future financial liability associated with loans taken out by Dublin City Council to fund our contribution to the capital cost of the provision of water assets will not rest with Dublin City Council.
- (d) From 1st January 2014 Irish Water bill customers directly for development levies. A sum of money is due to Irish Water in respect of development levies collected on planning permissions granted prior to that date but no liability on Dublin City Council's part if development levies are not paid.

6. Further consideration of the letter dated 17th April 2015 from the Irish Sports Council to the Chief Executive re: Audit of Local Sports Partnerships

Following consideration of the information contained in the memo from the Senior Executive Officer, Culture, Recreation, Amenity and Community Department in response to queries raised by the Committee at its' May meeting, the Committee decided that in light of that additional information, it was happy that the funding (Irish Sport Councils grant) is being administered and tightly controlled by that Department. They asked that their view in that regard be conveyed to the Chief Executive Officer, Irish Sports Council. Furthermore, it was agreed that the amount of money involved was relatively modest in the overall scheme of things and consequently would not feature high enough on the list of priorities for audit purposes. It was agreed that this decision be conveyed to Mr John Treacy, Chief Executive Officer of the Irish Sports Council.

Action 5: Head of Internal Audit to have the Committee's view conveyed to the Chief Executive Officer of the Irish Sports Council.

7. Update from the Chief Executive on 'Pyrite Problems' in Dublin City Council properties

The Head of Internal Audit informed the members that the Chief Executive is awaiting information from the Law Agent in order to complete his report on the 'Pyrite Problem'. He expects to have that information shortly and will then circulate his report to the Audit committee.

Action 6: The Chief Executive to forward his report on 'Pyrite Problems' as soon as it is ready.

8. Internal Audit Report R04/15 – Review of Fleet Management Section, Order to Payment Process (Waste Management)

Report noted. An explanation as to the background to the report was given by the Head of Internal Audit/Head of Finance in response to a query from the Chairperson.

9. Internal Audit Report R05/15 – Review of Procedures Manual Compliance in Dublin City Council

Compliance level in this regard has worsened since 2013 as a result of a very unsatisfactory level of compliance by the Environment & Transportation Department,

a new department formed in 2014 following the merger of the Environment & Engineering Department and the Roads & Traffic Department. The Committee members all expressed their utmost dissatisfaction with the new Department's compliance especially as 29 of its' Business Units did not even bother to respond to the survey which represents 14% of the total Corporate Business Units (206). They asked that their dissatisfaction be conveyed to the Chief Executive, as evidently Senior Management in that Department had not bought into this important aspect of 'business continuity'.

Action 7: Dissatisfaction of the Audit Committee in relation to level of compliance in this regard by the Environment & Transportation Department, to be brought to the attention of the Chief Executive. (HF)

10. Resourcing of the Internal Audit Unit (Staffing)

Ms Theresa Lannon was introduced by the Head of Internal Audit to the members as a new Administrative Officer (Grade 7). The Chairperson, on behalf of the Committee, asked that a letter of thanks be sent to Ms Carmel Watters, Staff Officer (Grade 5) who will move (on mobility) to a new Department from 28.09.2015, for her work in the Internal Audit Unit over the past 7 years. Ms Martina McLoughlin, Staff Officer (Grade 5) will replace her from that date.

The Committee expressed their concerns as to the adequacy of the staff resources in Internal Audit particularly in light of an Accountant (Grade 6 level) leaving last week on maternity leave. The Head of Finance explained that Dublin City Council is currently in the process of recruiting accountants and that this may facilitate strengthening the Unit in this regard by possibly assigning two further accountants to Internal Audit. A report on staffing will be brought to the Committee at the December meeting in conjunction with a draft Annual Audit Plan for 2016.

Action 8: Letter of thanks to be sent to Ms Carmel Watters on behalf of the Audit Committee (HF)

Action 9: Further report to the December meeting. (HF)

11. Possible subjects of future 'Familiarisation Sessions' for the Audit Committee by Senior Management

The Chairperson said that these sessions have been very helpful and suggested possibly looking at Housing in the future e.g. how the City Council manages housing stock, homeless issue etc. Councillor Ring stated that maintenance and voids were a big issue for councillors. Also he said that there is a 7 month turnover between a tenant vacating a premises and a new tenant taking up residence. The Head of Finance suggested taking one component of Housing possibly Rent or Mortgage arrears. Agreed.

Action 10: Mr Fitzpatrick to liaise with Mr D Brady, Assistant Chief Executive, to arrange a familiarisation session in respect of Rents or Mortgage Arrears.

12. Training needs of Audit Committee members

None identified but if Members require training in any aspect in relation to their role on the Audit Committee, they should notify the Head of Internal Audit accordingly.

13. Any Other Business

None.

14. Schedule of future meetings

The members agreed the following date for a meeting this year:

10th December 2015 at 8 a.m.

The meeting ended at 9.25 a.m.



Brendan Foster, Chairperson

10th December 2015

Date

Appendix A

Actions agreed at this Audit Committee Meeting

- Action 1:** Actions agreed at previous Audit Committee meetings but still to be dealt with to date, to be carried forward to the December meeting (See Appendix B).
(HF)
- Action 2:** The Chief Executive to advise the Audit Committee on the outcome of the following two reports:
- (1) Review of the City Council's approach to risk taking/insurance by Willis Limited and
 - (2) A Value for Money review of Irish Public Bodies by Price Waterhouse Cooper
- (Chief Executive)***
- Action 3:** Audit Committee's Report on the Local Government Auditor's Report and the audited Annual Financial Statement of Dublin City Council for the year ended 31.12.2014 to be submitted to the City Council (October monthly meeting)
(HF)
- Action 4:** Interim Report from Ernst & Young on 'Risk Management' to be submitted to the Audit Committee (December meeting) ***(Mary Pyne)***
- Action 5:** Audit Committee's decision in respect of the request from the Irish Sports Council to periodically audit its' sports grant to Dublin City Council, to be conveyed to the Chief Executive Officer, Irish Sports Council. ***(HF)***
- Action 6:** Chief Executive's Report on the 'Pyrite Problems' to be forwarded to the Audit Committee Members as soon as possible. ***(Chief Executive)***
- Action 7:** Dissatisfaction of the Audit Committee in relation to level of compliance in this regard by the Environment and Transportation Department to be brought to the attention of the Chief Executive. ***(HF)***
- Action 8:** Letter of thanks to be sent to Ms Carmel Watters on behalf of the Audit Committee ***(HF)***
- Action 9:** Staff resources of the Internal Audit Unit to be listed again for the December meeting. ***(HF)***
- Action 10:** Mr Dick Brady, Assistant Chief Executive of the Housing & Residential Services Department to be asked to arrange for a presentation to be made to the December Audit Committee Meeting on DCC's rent or mortgage arrears.

Appendix B

Actions agreed at previous Audit Committee meetings but still to be dealt with to date, to be carried forward to the December meeting.

Action 4: Agreed at the May meeting. Mary Pyne to update Audit Committee on progress on Protected Disclosures 2014 Act policy and procedures **(MP)**

Action 4: Agreed at the February meeting. Review of recommendation implementation report will be submitted to the Audit Committee in due course **(HF)**

