



**NOTIFICATION TO ATTEND MEETING OF THE PLANNING, INTERNATIONAL RELATIONS
AND PROPERTY DEVELOPMENT SPC**

TO BE HELD IN THE COUNCIL CHAMBER, CITY HALL, DAME STREET, DUBLIN 2.

ON TUESDAY, 26 APRIL 2016 AT 3.30 PM

AGENDA

TUESDAY, 26 APRIL 2016

PAGE

- | | | |
|---|--------------------------------------------|--|
| 1 | Agenda Reports | |
| 2 | Minutes of meeting of 23rd February 2016 | |
| 3 | Matters Arising | |
| 4 | Active Land Management | |
| 5 | Coca-Cola Zero dublinbikes Funding Options | |
| 6 | UK Planning Exemptions | |
| 7 | Enforcement Procedure | |
| 8 | International Relations | |
| 9 | A.O.B | |

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Strategic Policy Committee
Planning, International Relations and Property Development
Minutes of Meeting held on 23rd February, 2016 Council Chamber, City Hall

Attendance

Cllr. Andrew Montague (chair)
Cllr. Kieran Binchy
Cllr. Cathleen Carney Boud
Cllr. Áine Clancy
Cllr. Daithí De Róiste
Cllr. Dermot Lacey
An tArdmhéara Criona Ní Dhálaigh

Ms. Valerin O'Shea
Ms. Oznur Yucel-Finn

Apologies

Mr. Patrick King
Mr. John McGrane
Mr. Odran Reid

Officials

Mr. Jim Keogan, Assistant Chief Executive
Mr. John O' Hara, A/City Planner
Mr. Peter Finnegan, Executive Manager, Economy & International Relations
Ms. Maire Igoe, Senior Executive Officer
Mr. Mick Ryan, Senior Executive Officer
Ms. Joy Watts, Staff Officer

1. Minutes of Meeting of 3rd November 2015

Order: Agreed

2. Matters Arising

Change of name of the SPC reflects the restructuring in the division of delegations in the Senior Management Team which were approved at the last City Council meeting. Property Development deals with active land management and the acquisition and disposal of land.

New SPC Regulations to be sent to Sectoral Members, the Councillors have already got them.

Item 5: UK Planning Exemptions has been put back to the next SPC because of the number of items on today's Agenda and because attendance was expected to be low because of the Dáil elections.

Item 7: Promoting Dublin as a City of Romance will be updated by Peter Finnegan.

3. New Ministerial Guidelines / Housing Supply and Viability in Dublin

DCC will take cognisance of the Guidelines. The RIAI concerns re the area sizes outlined was raised by Sectoral Members. However it is a matter for the Department to clarify if there is a conflict.

Order: Noted

4. Vacant Land Levy

If a site is capable of development for housing or if in a regeneration area and is in need of renewal to prevent it lying idle then the vacant site levy may apply under the Urban Regeneration and Housing Act 2015. A vacant site register will be established.

Order: Noted.

5. Development Contributions Rebate Scheme

Where a minimum of 50 homes are completed and sold during 2016 and 2017, for a sale price €300,000 or less, the scheme provides for the rebate of Section 48 contributions. The rebate is 100% in respect of sale price less than €275,000 and 80% for sale price of €275,000 - €300,000 and will be paid at the beginning of 2017 and 2018.

Order: Noted.

6. Motions referred by Development Plan Review Process

Motion 1469: The issue of offsets is not generally encouraged, and we have to ensure that the correct audit procedures are carried on in this event.

Order: Falls

Motion 1048: This item has now been superseded by the Vacant Land Levy.

Order: Falls. Report to Brendan Carr.

Motion 1091: There are 17 SDRAs identified in the Development Plan. Area Development Management Teams and Forward Planning Team have the skill set needed and are highly experienced in plan implementation through the Development Management process and work with the Area Office and other Departments to prepare SDRAs. Objective is that a dedicated team be set up.

Order: Agreed

Motion 1320:

Erecting columbarium walls in some of our older cemeteries on North and South sides would allow people to be buried in their local area, providing a service that is needed, and create revenue for the Council for the upkeep of those old cemeteries.

Order: Motion passed, and agreed to Refer to CRA and the Arts, Culture, Leisure and Community SPC to implement.

Motion 1359: Worthwhile that this SPC gets a Report on Enforcement procedures. Conditions are only checked if someone objects. All complaints are checked as statutorily required.

Order: Noted

Motion 1361: This was listed in error on the Agenda as Cllr O'Farrell's Motion. It was clarified that it was a Motion from Cllr Montague. A survey of all Z6 lands to be included in Draft Development Plan. Detailed survey of all industrial lands was carried out about 8 years ago to look at the next layer of development land. We are obliged to have sufficient land zoned to meet our needs re population growth, for housing and office development for the length of the Development Plan.

Order: Agreed that a focussed Survey or Audit of all Z6 lands as provided for in Draft Development Plan will be carried out and regular updates be brought to the SPC.

Motion 1450: To change this would require a change in the Regulations.

Order: Write to the Department on behalf of the SPC recommending these changes.

Motion 1558: There is no definition of adult shop in the Development Plan. A shop can change to an adult shop without planning permission, as there is no change of use. To consider this a

change of use would require a change in the Regulations by the Oireachtas. An area of Special Planning Control can have a derogation from National Regulations eg O'Connell Street and Grafton Street areas of Special Planning Control both provide that the normal exemptions that apply to changes of use in retail category do not apply to this type of shop.

Order: Write to the Department to get clarification on adult shops, and also ask for a change in legislation showing a distinct class use for them.

7. International Relations

An tArdmhéara said it's fantastic to get such an in-depth Report and see the amount of work being done by this Section. She also acknowledged the work that is done within the Lord Mayor's Office, as without Peter Finnegan and his Section her work load would have been a lot heavier this year. She wanted to take the opportunity to thank them for the great assistance they have given to her as an ambassador in speaking with international visitors, ambassadors, and other dignitaries. This was echoed by Cllrs Lacey and Montague.

Order: Noted

8. Motions:

Motion referred from Dublin City Council Monthly Meeting 1st February 2016

"That Dublin City Council deplores the recent installation of bars on the exterior of Gandon House designed specifically to deter rough sleepers from obtaining a modicum of shelter from the rain at night and furthermore supports the introduction of a ban on such devices via building and planning regulations or bye-laws"

Agreement with the sentiments expressed here. However, under the Planning Acts not everything that happens around a building requires planning permission, and a ban cannot be instigated under the current legislation.

Order: Agreed. Write to the Department and also express SPC concern at privatisation of public space in Dublin City area.

9. A.O.B:

Next meeting: Scheduled for 26th April 2016 @ 3.30 in the Council Chamber, City Hall.

Report to the Planning, International Relations & Property Development Strategic Policy Committee April 2016

Active Land Management

There are 10,000 hectares (34,000 acres) of land within the boundary of Dublin City Council. For the most part this land is in active use for a variety of purposes, residential, commercial and recreational. However, there is a significant level of land which is under-utilised, vacant or derelict. To date the Planning and Property Development Department have addressed the challenges arising from vacancy, underutilisation of derelict sites, through a variety of measures i.e. derelict sites, property management and Planning & Development Regulations. Property Management, Disposals and Acquisitions are part of the core business of the department and in 2015 103 no. disposals took place while 5 no. compulsory purchase orders (CPO's) are actively being managed, while a further 4no. CPO's are planned for 2016 and approximately 20 no. sites are in the process of being disposed of or their disposals will take place this year.

However, the operations of these different sections have not been seen to be done in a coordinated, efficient and effective manner. The City Council now intends to become more pro-active in targeting underutilised, vacant and derelict lands and buildings through the establishment of an Active Land Management Unit. The unit which will be headed up by the Executive Manager of the Planning and Property Development Department will consist of a multidisciplinary team drawing from the existing established expertise of a number of different units within the department; Property Management, Derelict Sites, Valuers, Development Management, Conservation and Architecture. An Inter – Departmental Group chaired by the Chief Executive will oversee the work of the unit.

This change in direction for the City Council, has in part been influenced by the advent of the Vacant Land levy legislation and the statutory requirements that will be imposed on the Council under this legislation.

Urban Regeneration and Housing Act 2015

The Urban Regeneration and Housing Act 2015 makes provision for a vacant sites levy in areas in which housing is required and in areas in need of renewal.

We are awaiting guidelines from the department but each Planning Authority is to establish and maintain a vacant sites register from 01st January 2017, as owner is to be notified before 01st June 2018 that their site is on the register and the levy is payable in arrears.

The Act outlines the procedure for sites on the register, appropriate notices, market value, appeals, the amount of the levy etc.

Vacant Site Levy - Definitions

“regeneration land” means land identified by a planning authority in its development plan or local area plan, after the coming into operation of *section 28*, in accordance with section 10(2)(h) of the Act of 2000 with the objective of development and renewal of areas in need of regeneration, and includes any structures on such land;

“residential land” means land included by a planning authority in its development plan or local area plan in accordance with section 10(2)(a) of the Act of 2000 with the objective of zoning for use solely or primarily for residential purposes, and includes any structures on such land.

Vacant site

(1) In this Part, a site is a vacant site if –

(a) In the case of a site consisting of residential land –

- (i) The site is situated in an area in which there is a need for housing,
- (ii) The site is suitable for the provision of housing, and
- (iii) The site, or the majority of the site, is vacant or idle,

and

(b) In the case of a site consisting of regeneration land –

- (i) The site, or the majority of the site, is vacant or idle, and
- (ii) The site being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing public infrastructure and facilities (within the meaning of section 48 of the Act of 2000) in the area in which the site is situated or has adverse effects on the character of the area.

(2) In this section –

“site” means any area of land exceeding 0.05 hectares identified by a planning authority in its functional area but does not include any structure that is a person’s home;

“home”, in relation to a person, means a dwelling in which the person ordinarily resides (notwithstanding any periods during which the dwelling is vacant) and includes any garden or portion of ground attached to and usually occupied with the dwelling or otherwise required for the amenity or convenience of the dwelling.

Steps to be taken for implementation of levy

The draft Development Plan includes a new section which identifies the areas where the vacant land levy will apply.

The following is a short summary of the initial main steps that need to be taken for the purposes of applying the levy:

- (a) discussion and decision by Councils on the application of the levy provisions in their functional areas;
- (b) inclusion of objective in development plan or local area plan (by way of new plan or variation of existing plan) for the development and renewal of identified areas in need of regeneration or residential development;
- (c) incorporation of designated areas in which the levy can be applied in the development plan or local area plan;
- (d) identification of individual vacant sites in designated areas which in the planning authority's opinion were vacant during the previous year;
- (e) establishment and maintenance of a register of vacant sites (entitled the vacant sites register) in the identified areas from 1 January 2017;
- (f) before 1 June 2018, issuing notices to the owners of vacant sites included in their vacant sites register indicating that such site owners shall be charged levy in respect of 2018 in January 2019;
- (g) with effect from 1 January 2019 and every year thereafter, charging in respect of the previous year a levy on each owner of a vacant site included in the vacant site register.

Vacant Land Study

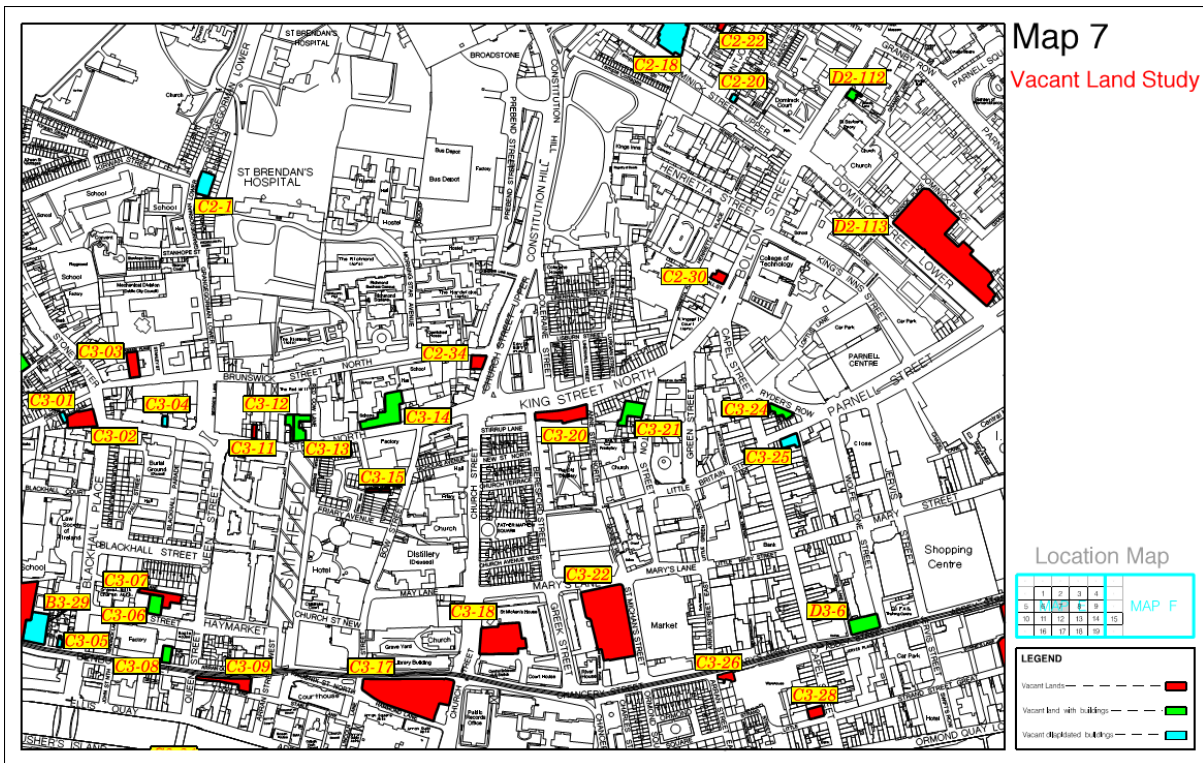
An audit of vacant land was commenced by the City Council in autumn 2013 and its findings were published in a report dated February 2015 which defined vacant land and buildings as follows:

- a. Vacant Land – a cleared site with no physical evidence of any structures.
- b. Vacant Land and building(s) – a vacant site which could not be identified on its own without including associated secondary building(s) which area vacant and appear to be dilapidated and therefore unlikely to be capable of occupation.
- c. Vacant Building – a site comprising almost entirely of a vacant dilapidated building.

Principle Findings

The survey database currently contains 282 records of vacant lands in the inner city. These 282 sites occupy 61 hectares – approximately 4% of the zoned land area of Dublin's Inner City. This is similar to vacancy and dereliction levels recorded in other cities such as Glasgow (4%) and Greater Manchester (5%), although it should be noted that definitions of vacancy vary, making direct comparison difficult.

Category	Description	No. of sites identified in survey	Area hectares
Vacant Land	Site is clear of structures and has no evidence of a permanent use	151	33.01
Vacant Land and Buildings	Classification used if plot of vacant land cannot be identified on its own without including some associated dilapidated vacant building(s)	91	26.38
Vacant Building	Site comprising of a building in such a state of disrepair that it is unlikely to be capable of use	40	1.7
Total		282	61.13



An initial assessment of the identified sites has indicated that 143 of the 282 are greater than 0.05 Ha and are potentially subject to the Vacant Land levy. It is an objective that these sites will be surveyed and mapped in the next two months and will identify how many of these sites are still vacant.

This vacant land audit will form the initial basis for the surveys which are required to implement the vacant land levy and will then be extended to the rest of the city.

Dereliction

There are many challenges facing the City Council in its endeavors to prevent and eradicate dereliction in the City. The Derelict Sites Unit (DSU) is currently dealing with 450 approx. live files. Dealing with dereliction though is not straightforward. Dereliction occurs through the neglect of a property and arises in the majority of cases where there are title difficulties, probate issues, owners with personal difficulties, companies in liquidation and unfinished developments. The economic collapse has exacerbated the situation leaving in its wake unfinished developments, derelict sites and protected structures which are in need of either clean-up, maintenance or both. The number of stakeholders who find themselves potentially affected by the application of the Derelict Sites Act 1990 has expanded beyond developers/owners of a derelict site to include financial institutions, NAMA, receivers and liquidators.

These are signs that the economic recovery may be having a beneficial impact on the derelict sites front. Twenty sites were removed from the Derelict Sites Register during 2015, six of which have been on the register since 2010/2011, and included development sites. This compares to thirteen sites in 2014 and five sites in 2013.

What is a Derelict Site?

The public's view on what constitutes a derelict site can be very varied and not always in accordance with the legislative definition.

The definition of a 'derelict site' as set out in the Derelict Sites Act 1990 (the 1990 Act) is:

"any land which detracts, or is likely to detract, to a material degree from the amenity, character or appearance of land in the neighborhood of the land in question because of:

(a) The existence on the land in question of structures which are in a ruinous, derelict or dangerous condition, of

(b) The neglected, unsightly or objectionable condition of the land or any structures on the land in question, or

(c) The presence, deposit or collection on the land in question of any litter, rubbish, debris or waste, except where the presence, deposit or collection of such litter, rubbish, debris or waste results from the exercise of a right conferred by statute or common law."

Enforcement Powers

The 1990 Act provides a range of enforcement mechanisms to local authorities to tackle derelict sites. The major powers contained in the act are the following:

1. Informal action (S.10)
2. Notice of Intention to enter on the Derelict Sites Register (S.8(2))
3. Entry on the Derelict Sites Register (S.8(2)) with resultant imposition of a levy equating to 3% of market value of the derelict site. Unpaid levies attract interest of 1.25% per month.
4. Service of a Notice requiring specified works to be carried out (S.11).
5. Compulsory acquisition of a Derelict Site (S.14 & S.17)

The Derelict Sites unit adopts a two-pronged approach to dealing with complaints. In the first instance the reputed owner is advised of his/her obligations under the 1990 Act, and requested to carry out the required improvement works. This approach is quite successful, resulting in the vast majority of sites being remedied. When this approach does not yield the desired results the formal procedures under the Derelict Sites Act are invoked. The DSU carried out 744 inspections in 2015 which culminated in 245 warning letters to property owners. As a result of the persistent endeavors of the DSU through correspondence and phone calls to owners, further action was required in the case of 33 sites only. Despite all endeavors of the DSU 21 sites eventually ended up being placed on the Derelict Sites Register in 2015. At the same time twenty sites were removed from the Derelict Sites Register, having been rendered non-derelict. Currently there are 54 sites on the Register.

The fact that a site is on the Derelict Sites Register does not mean an end to the problem. Sites can, and do, remain on the Derelict Sites Register for quite some time despite the imposition of a levy and interest. This situation is exacerbated in the current climate where owners lack the necessary finances, are bankrupt or companies are in liquidation. In those cases where a levy remains unpaid, a charge is placed on the land. Currently there is €1,817,521 outstanding in levies. (levies received 2013 to 2015: €509k) It should be remembered that the primary purpose of the derelict sites levy is to eradicate dereliction and not to create additional revenues for local authorities.

While a local authority has the power to acquire compulsorily any derelict site, the acquisition by agreement is always favored, but when this is not practicable or possible (for a variety of reasons such as, refusal to sell, unknown ownership of land or impossibility of agreement as to price) then the use of compulsory purchase is available but should only be used as a last resort. Because the acquisition of private land raises many sensitive issues and requires careful consideration and justification, there are strict statutory procedures governing the exercise of compulsory purchase powers.

If a local authority intends to compulsorily acquire a derelict site, it must first serve a notice of its intention to do so on every owner, lessee and occupier (except a tenant who has been in situ for one month or less). If an objection is submitted a local authority is not entitled to proceed to compulsorily acquire a derelict site unless it secures the consent of an Bord Pleanála (the Board), which is not always guaranteed. The Board may grant or refuse consent to the compulsory acquisition of all, or part of, the derelict site in question.

The aggregate valuation of the 54 sites on the Derelict Sites Register is €15m approx. And a cost benefit analysis (CBA) will be carried out on sites on the register to establish potential sites for compulsory purchase.

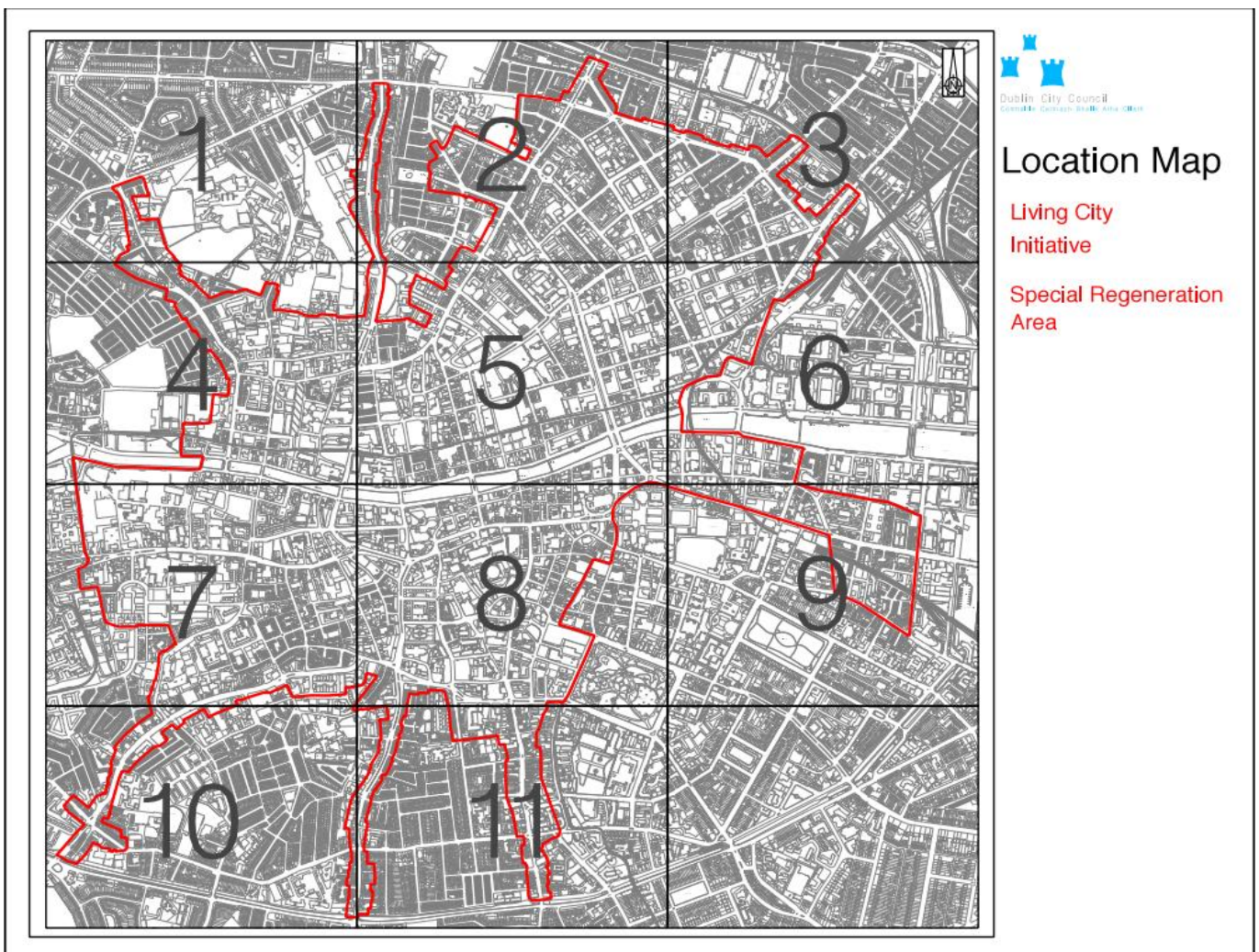
Living City Initiative

The Living City Initiative is a scheme of property based tax incentives designed to regenerate certain types of residential and commercial property in a defined Special Regeneration Area ('SRA') of Dublin, Cork, Limerick, Galway, Waterford and Kilkenny. The Living City Initiative location maps for Dublin City can be found on the Dublin City Council website. The tax relief applies to both residential

and commercial refurbishment and conversion work that is carried out during the qualifying period only. It does not apply to new build.

“The aim of The Living City Initiative is to bring life back into the heart of these cities by offering tax relief for qualifying expenditure incurred on the refurbishment or conversion of certain building where conditions are met. This is a targeted initiative at areas which are most in need of attention”.

To date there has been limited take up of the incentive. However, as result of a recent workshop held by the City Council a number of initiatives are now being proposed that will be implemented through the Active Land Management Unit. These initiatives will involve the publication of architectural templates for Georgian buildings for their re-adaptation, re-use and reconfiguration for residential purposes or mixed residential/ commercial use. The establishment of a one-stop-shop to advice owners, occupiers and investors of existing properties in the city on compliance with fire regulations, conservation requirements and building control regulations .



Housing Task Force

In May 2014, the Government published Construction 2020 – A Strategy for a Renewed Construction Sector. This strategy sets out Government policy to increase the capacity of the Sector to create and sustain jobs and to grow the sector to a sustainable level consistent with the demands of a modern economy.

Action 2 of the Strategy commits to the establishment of a *Housing Supply Coordination Taskforce for Dublin with an immediate focus on addressing supply-related issues. It will work closely with industry and other parties, including those responsible for key infrastructure such as schools, to identify and address any obstacles to viable and appropriate development.*

In the context of measuring short term viable supply, the four Dublin local authorities and NAMA reviewed all planning applications for 20 units or more and categorised them as follows:

Tier 1 sites:

This relates to sites where planning permission has been granted and the permission can be implemented immediately. Tier 1 sites include developments that have commenced and are currently under construction, and in some cases may include developments which contain completed units.

Tier 2(a)

Sites where a planning application has been lodged with a planning authority, and a final decision on that application is pending, are recorded as Tier 2(a) sites.

Tier 2(b)

This relates to lands which are zoned and where there is an appropriate planning policy in place or being put in place, and that there is no insurmountable infrastructure constraint which cannot be resolved.

However, it should be noted that Tier 2(b) sites do not infer any presumption as to the likelihood or otherwise of a grant of permission for any particular development.

Please find set out below the statistics for Dublin City Council for Quarter 4 2015 under these headings:

Breakdown of Tier Totals										
	Tier 1 Totals		Tier 1 (Units Permitted but not commenced)		Tier 1 Units under Construction		Tier 2(a)		Tier 2(b)	Totals
	Houses	Apartments	Houses	Apartments	Houses	Apartments	Houses	Apartment ents	Units	
DCC	1637	3678	1254	3313	383	365	671	1428	8789	16,203

It will be a priority of the Active Land Management Unit to monitor Tier 1 Planning Permission Sites.

Housing Land Initiative

This initiative which is in addition to the Social Housing Programme, (which targets the completion of 5357 social housing units by 2017) is an attempt by the council to use its strategic land bank as leverage to ensure housing supply both public and private. The Council is actively working on sites at Oscar Traynor Road, O'Devaney Gardens and St. Michaels Estate which combined have the potential to deliver over 1,300 no. units.

The Active Land Management is involved in a multidisciplinary team which is being established to seek the redevelopment of these sites.

Dublin City Council & DAHG Built Heritage Investment Scheme

A total of 55 applications were received by the Conservation Unit in December last for funding in 2016 under the Built Heritage Investment Scheme of the Department of Arts, Heritage and the Gaeltacht (DAHG) <http://www.dublincity.ie/main-menu-services-planning-heritage-and-conservation-heritage/built-heritage-investment-scheme-2016>

53 projects were approved for funding totalling €298,000 by the Built Heritage Unit in the DAHG, many of which are either on the Building-at-Risk Register (these are buildings on the Record of Protected Structures which are deemed to be endangered) or would be suitable candidates for entry on review of the Register. The funding ranges from the minimum of €2,500 to €13,600 for three projects.

The implementation of the scheme and in particular targeting a uniformed portion of the overall plans for buildings that are on the buildings-at-risk register, is considered to be a significant contributor to preventing further endangerment and bringing about revitalisation and conservation of our built heritage.

The Active Land Management Unit will take overall responsibility for coordinating its work, particularly in relation to those buildings that are deemed to be on the Record of Protected Structures which are experiencing significant endangerment.

Objectives and Recommendations:

- It is recommended that the City Council apply and make use of the vacant land levy provisions in its functional area.
- The Active Land Management Unit will survey and identify individual vacant sites , commencing with a survey of inner city sites.
- The Unit will establish and maintain a register of vacant sites and implement the processes and procedures as outlined in the Act (Awaiting guidelines from the Department)
- The Unit will carry out a cost benefit analysis on sites on the derelict sites register to establish potential sites for compulsory purchase.
- The Unit will develop a new standard for fencing / hoardings around DCC undeveloped sites.

- The Unit will establish a one- stop shop to assist applicants under the Living City Initiative.
- The Unit will monitor Tier 1 sites which have been granted planning permission and whose permission can be implemented immediately.
- The Unit will be involved as part of a team to develop the sites under the Housing Land Initiative.
- The Unit will co-ordinate the City Council's work in relation to those buildings on the record of Protected Structures.

Paul Clegg
Executive Manager

Jim Keogan
Assistant Chief Executive



**Report to the Planning, International Relations & Property Development
Strategic Policy Committee
April 2016**

Coca-Cola Zero dublinbikes

Report on Revenue Generation Options to Facilitate Expansion



CONTENTS

- 1.0 EXPANSION FRAMEWORK
- 2.0 CURRENT BUSINESS MODELS
- 3.0 REVENUE GENERATION OPTIONS TO FACILITATE EXPANSION
- 4.0 RECOMMENDED FUNDING APPROACH
- 5.0 RISKS AND BARRIERS TO EXPANSION
- 6.0 RECOMMENDATION SOUGHT

APPENDIX 1

Report No. 178/2013 of the A/Assistant City Manager on the Expansion of the dublinbikes Scheme (2013)

APPENDIX 2

Coca-Cola Zero dublinbikes Expansion Phasing Map

1.0 EXPANSION FRAMEWORK

1.1 dublinbikes Strategic Planning Framework 2011-2016

The 'dublinbikes Strategic Planning Framework 2011-2016' document is a developmental plan for the 14 Phase expansion of the Coca-Cola Zero dublinbikes scheme to a capacity of 5,000 bikes and 300 docking stations through the city. This intentionally ambitious plan was endorsed by the City Council in late 2010. Plan implementation was identified as being subject to the identification of funding. The current scheme network represents Phase 2 of the planned 14 Phases.

1.2 Current Scheme Infrastructure

Phase	Year	Stations	Bikes
Phase 1	2009 – Launch of dublinbikes	40	450
	2010 – Mini Expansion	4	100
Phase 2	2014 – Heuston-Docklands	57	950
Current Scheme	2016 – Coca-Cola Zero dublinbikes	101	1,500

1.3 Scheme Statistics

Date	31/12/2015	31/1/2016
Valid Long Term Subscribers	57,750	58,671
Short Term Subscribers	18,650	707 (YTD)
Journeys	4,072,878	297,621 (YTD)
Journeys (since launch)	13,411,953	13,709,574
Average Duration of Journey	14 Minutes	14 Minutes (YTD)
Percentage of Journeys Free	96%	96% (YTD)
Busiest Usage Date Ever	8/10/2015	8/10/2015
Journeys on Busiest Day	17,222	17,222

1.4 Financial Performance of Coca-Cola Zero dublinbikes in 2015

Financial Performance of Coca-Cola Zero dublinbikes 2015		
	€	€
Operational Expenditure		1,928,950
<i>less</i>		
Total Income	1,552,739	
<i>(Income from Subscription & Usage Fees)</i>	<i>(1,240,739)</i>	
<i>(Income from Sponsorship)</i>	<i>(312,000)</i>	
Total Cost to DCC for 2015		<u>376,211</u>

2.0 CURRENT BUSINESS MODELS

2.1 Phase 1 'dublinbikes' Business Model (2006)

The dublinbikes scheme arose from a tender by Dublin City Council for the provision of a package of public amenities (bike rental scheme, wayfinding scheme, public information system) in return for concessions over advertising sites in the city – at a cost neutral basis to the Council. The total value of this scheme of public amenities was worth in the order of €83 million to the City Council over the life of the Concessionary Contract.

JCDecaux funded all set up costs with respect to the bike hire scheme including annual Operations and Maintenance costs. Dublin City Council received membership and usage fees.

A small 4 station expansion of the scheme was carried out in 2010. This expansion was to be funded through the reinvestment of membership and usage fees over a three year period and through the provision of 10 additional advertising concessions that would be subject to Part 8 approvals. Part 8 consents were subsequently granted for 6 of the 10 advertising panels.

To date, Dublin City Council has not fully complied with the terms of the Concessionary Contract as not all of the agreed number of advertising panels have not been erected. This situation is related to the difficulty in identifying acceptable sites as all of the sites are subject to planning approval. As such, it will be necessary to bring proposals to City Council very shortly to erect 4 advertising panels that would fulfil the City Councils obligations under the Concessionary Contract signed in 2006 for which we have been benefitting since 2008 with regard to a public information system and a bike hire scheme since 2009.

It should be noted that failure to provide for the full quota of contractually required advertising structures could result in a service reduction of the Coca-Cola Zero dublinbikes scheme, or could result in an increased annual operational charge for the scheme.

2.2 Phase 2 'Coca-Cola Zero dublinbikes' Business Model (2013)

The Phase 2 expansion of the scheme was enabled by a National Transport Authority 'Sustainable Transport Grant' of €5.2m that part funded capital works for the extension. The capital funding deficit was met by Dublin City Council resources.

No additional advertising concessions were included as part of the Phase 2 expansion. The scheme expansion therefore incurs an annual Operations and Maintenance cost of €1.92m that is a responsibility of Dublin City Council to meet each year. This cost is offset by membership and usage fees that accrue to the Council as well as €312,000 per annum from sponsorship as 'Coca-Cola Zero dublinbikes'. Any remaining deficit is met by Dublin City Council. The 2015 deficit was €376,211.

The business plan outlining this expansion model was presented to and agreed by the City Council in 2013 as Report No. 178/2013, and is included in this report as Appendix 1.

2.3.1 Future Expansion Costs

Research undertaken by the Planning and Property Development Department estimates the total cost of expanding and operating the planned 14 Phases of the scheme to be in the region of €100m over a 10 year period, or €10m a year for a fully expanded bike scheme.

Historical financial detail on the background of the scheme is provided at Appendix 1.

3.0 REVENUE GENERATION OPTIONS TO FACILITATE EXPANSION

This report limits the exploration of potential revenue generation options to those that are immediately viable. This does not rule out the investigation of any other potential funding sources that might be identified over the lifetime of the scheme.

3.1 Advertising Funded

Dublin City Council's advertising funded bike share model consists of the granting of advertising concessions on commercially viable sites on publicly controlled lands. This is carried out in return for the construction/operation of a public bike share scheme by an operator. Advertising structures are subject to a statutory approval process.

As the outdoor advertising market continues to recover in a strengthening economy, the advertising funded bike share model has the greatest potential to facilitate expansion of the Coca-Cola Zero dublinbikes scheme. This model has the potential to full or part fund all remaining expansion phases. This is dependent on the number, location and specification of advertising structures. The most commercially efficient sites in Dublin are located on heavily trafficked radial/orbital routes, or within key civic/retail quarters centred on O'Connell Street, College Green, Grafton Street, etc. The most commercially efficient specifications utilise LED display technology. Not all potential sites in the city are commercially attractive or viable.

The footprint of an expanded bike rental scheme catchment will not replicate the spread of potential advertising sites in the city. This factor must be recognised by all parties to the scheme, including planners, policy makers and citizens in order to provide for future expansion using the advertising funded model.

3.2 Alteration of Subscription and/or Usage Fees

3.2.1 Alteration of the Usage Fee Structure

Primarily the scheme is intended to function as a sustainable transport choice within the city for short journeys. The current pricing structure helps to incentivise shorter trips and maximise the number of trips per day, making the most efficient use of the scheme's infrastructure. Alteration of the usage fee structure would not represent a viable revenue option as it would undermine the original operational principles and functioning of the scheme.

3.2.2 Increased Short Term Hire Membership Fee

The 3-day, short term hire fee is set at €5. This option is generally used by visitors to the city, particularly during the summer months. The offer of an affordable short term option to use the scheme supports a positive image and brand of the city abroad to potential visitors.

Short term membership numbers reached 18,650 in 2015. There is limited potential to generate additional revenue through any reasonable increase in the short term membership fee based on the number of 2015 memberships. This situation can be monitored over the summer of 2016.

3.2.3 Increased Long Term Membership Fee

The current long term membership fee is €20. The fees associated with bike share schemes in other European cities indicate that the annual membership fee in Dublin is relatively low. For example London has an annual subscription fee of circa €115 (£90). A reasonable increase in the long term membership fee could be a significant contributor towards addressing the existing deficit in running the scheme. Any excess that might arise could be reinvested back into the scheme.

Long term membership stands at over 58,000 as of February 2016. An €5 increase over the current €20 membership fee would generate additional annual revenue of circa €290,000; €10 would generate €580,000, etc. This does not take into account the percentage of price sensitive or infrequent users that may cancel membership due to an increase.

One of the major reasons for the success of the scheme has been that it is seen as relatively inexpensive. Increasing the annual membership fee could risk alienating the very scheme users who have made the scheme successful. Notwithstanding this, there is likely to be scope for a small price increase that retains equitable access to the scheme. It would be necessary to ensure that members are fully informed as to why the increase is being proposed.

3.3 Public Funds

The National Transport Authority (NTA) has been supportive of the scheme and regional bike share to date. Up to €1m may be available to Dublin City Council towards capital works for mini expansion of the scheme during 2016. It is expected that the NTA will continue to be an important source of capital funding for the scheme over its development cycle.

3.4 Naming Rights/Sponsorship

The sponsorship of the scheme as Coca-Cola Zero dublinbikes generates €312,000 per annum towards running costs. As the advertising market strengthens, the market value of sponsorship may increase. If the scheme is expanded substantially, this may also impact on the value of sponsorship. Ultimately, the market will determine the value of sponsorship when the current offer becomes available for renegotiation during autumn 2017.

3.5 Private Investment

Companies, property developers, etc may be willing to contribute to the cost of locating stations on or near their property to enhance the image of a development or company, or to provide a benefit to staff.

Since the launch of the scheme in 2009, The Planning and Property Development Department has facilitated discussions with third parties interested in locating bike stations on, or adjacent to various premises in the city. It is apparent from discussions that any revenue that could be realised from private investment would be modest and would include unrealistic conditions that would negatively impact on the operation of the scheme.

Private investment remains a potential funding source in the future but the key consideration with any revenue offer will be the operational impact on the scheme overall.

3.6 Growth of Membership Numbers

The objective of marketing and promotion is to communicate the benefits of the current scheme in order to increase subscriber numbers to 65-75,000 long term members and 25,000 short term members per annum.

Any growth in membership numbers supports the financial stability of the scheme. The scheme is marketed each year to attract new members to grow the long term membership base and counteract membership attrition. The planned membership increase experienced in late 2014 and during 2015 following scheme expansion has now levelled off, having achieved the necessary target growth rate post expansion.

A marketing and communications program to promote the scheme and membership will be undertaken during 2016 with the involvement of the operator and sponsor. This will be supplemented by a smaller targeted campaign run by Dublin City Council that focuses on particular population segments where membership is low.

4.0 RECOMMENDED FUNDING APPROACH

Previous analysis by the Planning and Property Development Department into public bike share found that membership fees and user charges are not sufficient to cover the expansion and ongoing operating costs that are incurred. This is the current situation with Coca-Cola Zero dublinbikes. Overreliance on one particular funding source also poses a revenue risk and it is prudent to obtain funding from a number of different sources to mitigate risk. The following actions are therefore required in order to adequately finance the current scheme and proceed with the implementation of further expansion planning.

4.1 Establish a Cost Neutral Basis for the Existing Scheme

The level of investment required by Dublin City Council to meet the scheme's operational cost in 2015 was €376,211. This is a very successful return on investment when considered in the context of the wider economic, public health, liveability and sustainability benefits to the city and its population that accrue each time a journey is undertaken on a Coca-Cola Zero dublinbike. However such subvention is not sustainable in the long term.

Notwithstanding the obvious benefits the scheme delivers to the city as a sustainable and efficient transport choice, it is important that the gap in operational funding is reduced or eliminated. The City Council would not have the necessary budgets to provide for the operational costs of an expanded scheme owing to the demands made on such budgets from other competing sectors.

It is desirable that any expansion of the existing scheme is cost neutral as was the case with the original Concessionary Contract.

An option to increase the annual membership fee from €20 to €25 during 2016 and €25 to €30 during 2017 will provide the scheme with a stable financial foundation. This fee increase will generate finance for current operational cost deficits but would not be sufficient to provide for the capital or operational costs of extension. The annual operational deficit must be addressed before any plans for future expansion can be considered.

4.2 Expansion of Advertising Funded Bike Share Model

Additional advertising structures are required to fund the expansion of the scheme. Statutory approval should be obtained on commercially suitable sites in the city in advance of expansion. These advertising structures must utilise the best available display technology in the industry in order to maximise revenue for the scheme and help reduce the overall number of structures required. This approach will provide certainty in relation to the level of funding available for expansion and related increased operational costs.

5.0 RISKS AND BARRIERS TO EXPANSION

5.1 Stakeholder Agreement

There will be a difficulty in achieving the further expansion of the scheme if;

- (a) The required membership fee increase is not achieved due to subscriber or public opposition.
- (b) The existing mandate which provides for advertising to fund the bike rental model is not endorsed due to a lack of public support.

5.2 Ongoing Risk of Financial Liability

There is a risk of Dublin City Council incurring a significant and ongoing financial liability for the running of the scheme if membership levels continue to plateau or experience a sustained decline. A scenario of critical membership decline could be precipitated by a number of internal/external factors such as perceptions of safety following serious cycle accidents, introduction of mandatory helmet laws, unacceptable fee increases, general improvements in other forms of public transport, etc.

6.0 RECOMMENDATION

It is requested that the Planning, International Relations and Property Development SPC note this report and the funding recommendations therein to provide for the long term sustainable funding of the Coca-Cola Zero dublinbikes scheme and to enable planning for the further phased expansion of the scheme to proceed.

Michael Rossiter
CCZ dublinbikes Project Manager

APPENDIX 1

Report No. 178/2013 of the A/Assistant City Manager on the Expansion of the dublinbikes Scheme (2013)

To the Lord Mayor and
Members of Dublin City Council

Report No. 178/2013
Report of the A/Assistant City Manager



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Report on the expansion of the dublinbikes scheme

Introduction

Dublin City Council's dublinbikes scheme is one of the most successful public bike rental schemes worldwide. When first introduced it was anticipated that there would be five thousand subscribers after the first year of operation. Currently the scheme has a total of 31,000 long term subscribers with the bikes being used on a daily basis anywhere between 5,000 – 7,000 times. The scheme has been embraced with resounding enthusiasm by the people of Dublin city. Since its introduction, Dublin City Council has been inundated with expressions of interest to have this scheme expanded. The proposed arrangements as outlined in this report put in place the foundations for the realisation of the dublinbikes expansion in 2013. Over the last 12 months Dublin City Council's Planning Department has been engaged with JCDecaux in negotiating terms to provide for an expanded bike scheme. These negotiations have now concluded and the details of the terms are outlined below. In summary, the terms provide for 58 additional new stations, 950 additional new bikes and c2000 additional new stands to be sited to the west in the Heuston area and to the east in the Docklands area. Subject to contract the works will commence this October and be completed during July 2014. The expanded bike scheme will provide for improved linkages in the city, the generation of 29 new jobs, the delivery of Government policy in relation to public transport and will further enhance the reputation of Dublin as a forward thinking and innovative city.

Background

Initial Contract

In 2006 following a competitive tender competition, JCDecaux were awarded a concessionary contract with Dublin City Council for the delivery of a package of public amenities in return for outdoor advertising on the city's streets. The contract awarded in 2006 was based on the erection of 120 advertising panels which provided for a package of public amenities at a value of €83.55 million to the City Council. Due primarily to planning restrictions this number (i.e. 120) of advertisement structures never materialised. Accordingly a revised agreement providing for the delivery of 72 advertising panels with a

revised package of public amenities to the value of €54.36 million to the City Council was put in place. This revised package of amenities over 15 years was valued as follows:

- The dublinbikes scheme:	€26,791,000
- Communications Network:	€23,464,000
- Way finding System:	€ 4,106,000

	€ 54,361,000

Amended Agreement

The dublinbikes scheme went live in September 2009 and consisted of 40 bike stations, 450 bikes and 795 stands. It had an immediate and dramatic impact, far exceeding all expectations regarding popularity and use. So popular was the scheme that the City Council within a very short period of time had to address issues arising from the unanticipated demand and popularity of the scheme. In early 2010, a further revision to the agreement was made which provided for an additional 4 new bike stations, 100 additional bikes and c300 additional stands. The overall value of this extension was set at €6.6 million over a 15 year period. The cost of delivering this extension was to be provided by an additional 10no. advertisement structures, together with a payment of €300,000 per annum over a 3 year period. This €300,000 derived from the schemes subscriptions. It should be noted that of these 10 additional advertisement structures only 7 have been approved and constructed to date. The remaining 3 Metropole structures have yet to be approved as it has not been possible so far to identify suitable sites for same. This extension to the scheme increased the value of the bike scheme over a 15 year period from €26.791 million to €33.391 million.

Under the terms of the original contract signed with JCDecaux in 2006, the start date was triggered when 75% of the outdoor advertisement component as outlined in the original contract (i.e. 120) was realised. As stated above due to planning and site related difficulties, the required number of outdoor advertisement structures to trigger the start date of the contract was never realised. Under the terms of the contract if the 75% advertisement component had not been realised the commencement date could be agreed between both parties. In this regard, the official start date for the public amenities contract (i.e. all 3 elements: dublinbikes, communications network and wayfinding) was agreed to be September 2012 and the 15 year period will run from that date.

Expansion

Prior to negotiating expanded terms with JCDecaux the issue of procurement was assessed and fully considered with expert independent advice been provided on this matter. In expanding the bike scheme, 3 primary options were available to Dublin City Council and included the following:

- 1) Engage in direct negotiations with JCDecaux.
- 2) Buy-out the existing bike scheme from JCDecaux;
- 3) Go out to public tender and potentially end up with another bike scheme in the city that was not integrated or interoperable with the existing bike scheme;

Having considered the above and based on procurement principles and legal advice, the only realistic option available to Dublin City Council was to negotiate a contract directly with JCDecaux. Following on from this, Dublin City Council engaged in direct negotiations with JCDecaux on the dublinbikes scheme expansion in July 2012.

New Contract

It is now proposed to expand the dublinbikes scheme. In doing so a new contract is required, which will be co-terminus (parallel) with the original and amended agreements. The new contract will run co-terminus with the existing contract but provision has been made for a review to take place after 10 years, which if required will allow for the retendering of the entire scheme, both existing and expanded. Unlike the original contract which was a concessionary contract, this contract will be a service level contract and will not involve the provision of any further outdoor advertising. The expansion of the dublinbikes scheme is a Dublin City Council initiative whereby JCDecaux will be providing this service on behalf of the City Council in return for financial remuneration.

dublinbikes Expansion

The existing dublinbikes scheme consists of 44 bike stations, 550 bikes, 1,087 stands and has an overall value of €33.391 million over a 15 year period. The proposed expansion is based on the provision of an additional 58 new stations, an extension to one of the existing stations, 950 new bikes and c2,000 additional cycle stands. The proposed expansion will result in the overall provision of 102 dublinbikes stations, 1,500 bikes and a total of c3,000 cycle stands. The expansion includes the Docklands area in the east and the Heuston/Kilmainham areas in the west of the city and these areas were identified in the strategy document which was approved by the City Council in 2010.

dublinbikes Data

The proposed expansion of the dublinbikes scheme provides for 'Portal' and 'Gateway' data access which will be available to Dublin City Council. This data portal will allow authorised users to capture real time data from the network of stations. The data portal will allow for the availability of the following:

- Real time rental graphs
- Real time station availability map
- Daily rental report

The availability of this data will allow for authorised personnel to carry out research which will guide and inform future policy in relation to cycling in the city.

Expansion Costs

Capital Costs

The overall cost of the proposed expansion will be in the order of €35 million over the lifetime of the contract. This cost can be categorised as follows:

Capital Costs	€ (Millions)
Ground-works (estimate)*	1.2
Street furniture (terminals and stands)	3.0
Street furniture (bike & vehicle fleet)	1.96
Total Capital Costs (Ex VAT)	6.16

*Please note that the ground-works element of the capital costs will be subject to a tender process.

The infrastructural costs associated with the schemes expansion have been independently verified and assurances have been provided that these costs represent reasonable value for money.

Operational Costs

The other main cost associated with the expansion of the dublinbikes scheme relates to the scheme's operation and management. The proposed operational costs provide for an interoperable bike scheme, complete with service level commitments which will ensure that the dublinbikes expansion scheme is managed, maintained and operated to the same specification as the existing highly successful scheme. The exceptional high levels of usage coupled with the 31,000 long term subscribers are indicative of the high level of specification associated with the current management and maintenance regime implemented by JCDecaux.

Operational Costs	Per Year	€ (Millions)
Management/Maintenance	1	1.925

The proposed operational costs are based on a co-terminus contract. Provision has also been made in the new contract for a break clause after a period of 10 years which will allow for a review of both the existing and expansion contracts and their retender as one overall scheme, should circumstances dictate.

Expansion Funding

Capital Costs

The capital costs are made up of civil works, infrastructural costs and the first tranche of bikes and maintenance vehicles. The civil works associated with the expansion of the bike scheme will be the subject of a tender process. The NTA have committed to providing a contribution of €5.2 million towards the capital costs of the proposed dublinbikes expansion. Of this €5.2 million, €2.6 million has been allocated by the NTA for capital works expenditure in 2013 with a further capital contribution of €2.6 million in 2014. With a total capital cost anticipated of circa €6.1 million and an allocation from the NTA of €5.2 million, the capital shortfall will be met by Dublin City Council funding from annual capital budgets. Having regard to the existing economic climate, it is critical that the project commences well in advance of year end, in order to draw down the allocated NTA funding as a delay could put this funding at risk.

Operational Costs

As part of the expansion it is proposed to increase the subscription fee from €10 to €20 for long-term subscribers and from €2 to €5 for short-term subscribers (i.e. 3 day subscribers). The current tariffs which include the first 30 minute free period will remain unchanged. The Business Plan for the dublinbikes expansion projects that the existing subscriber base will increase by approx 108%, with the number of long-term subscribers increasing from the current level of 31,000 to 66,000 and the existing number of short-term subscribers increasing from 10,000 to 25,000. This increase in subscription rates and numbers will result in revenues to the order of €1.434 million per annum. The shortfall in the operational costs of €500,000 must then be provided for as part of the annual budget.

Sponsorship Opportunity

As part of the negotiation process it has been proposed that an opportunity exists for the City Council to obtain further funding from the sponsorship of the expanded dublinbikes scheme. This could have the potential to generate additional net income to the City Council on an annual basis after taking account of the sponsorship marketing management costs. The advertisement market will dictate the market and value of such a sponsorship.

Any potential sponsorship revenue would reduce the overall shortfall considerably from the projected €500,000 thus reducing the burden on the annual budget.

Construction Programme

It is anticipated that construction work on the expansion of the dublinbikes scheme will commence in October 2013. The agreement provides for bike stations becoming operational in batches of 5 from October 2013 onwards. It is expected that the construction programme will be completed during July 2014 whereby all of the 58 new stations will be delivered and in use. The construction programme will initially focus on augmenting the existing scheme by adding to capacity within the existing network. The second phase of the construction programme will be concentrated in the Dublin Docklands area, closely followed by the construction of the stations moving westwards towards Kilmainham and Heuston station. The attached map outlines the existing scheme's station locations together with the proposed new stations and their locations.

A project team has been in place which was responsible for producing the strategy document in 2010 and completing the detailed design and layout of this two-phase expansion to Docklands and Heuston. Over the past two years the project team had extensive consultation with key stakeholders and sectoral groups and have taken on board the numerous representations received from members of the public, business interests and elected members in identifying bike station sites. It should be noted that in identifying the 58 new stations a significant number of sites were assessed and evaluated. The selection criteria followed the same principles as the original scheme: (a) Stations to be within 400m of each other; (b) as close as possible to places of employment; (c) public transport nodes (d) residential areas; and (e) cultural destinations. The detailed site selection was governed by the following criteria: suitability in terms of station size and capacity; absence of underground services; suitability to provide access for service vehicles; future traffic management plans; and health and safety requirements.

Briefing Meeting

On the 29th of April 2013 the Contracts Committee of the City Council were given a briefing of the proposed dublinbikes expansion. A separate briefing meeting took place on the 2nd May 2013, convened by the Lord Mayor, this meeting included the Group Leaders, members of the CPG and members of the Contracts Committee. The meeting agreed that in this report to City Council that it be recorded that they recommend to the City Council members that the dublinbikes scheme be expanded in accordance with the details as outlined.

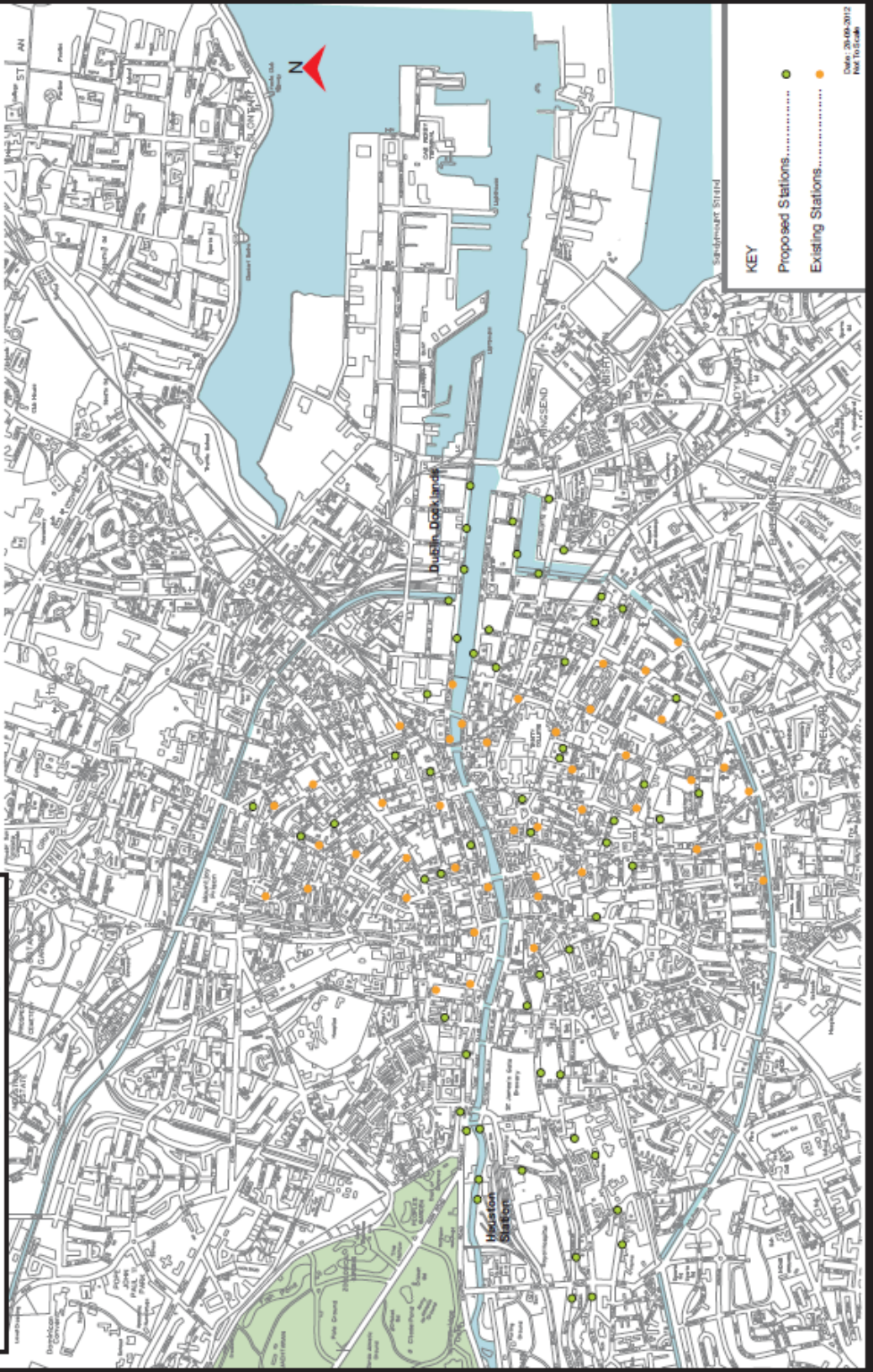
Conclusion

The terms are considered reasonable and value for money and will provide for the much anticipated and expected expansion of the dublinbikes scheme without impacting adversely on annual revenue budgets. Heads of agreement providing for the terms outlined above are in place with JCDecaux and following the City Council meeting it is proposed to complete the contract with JCDecaux to provide the expanded service so as to enable the expanded scheme to be fully operational by Summer 2014.

Jim Keogan

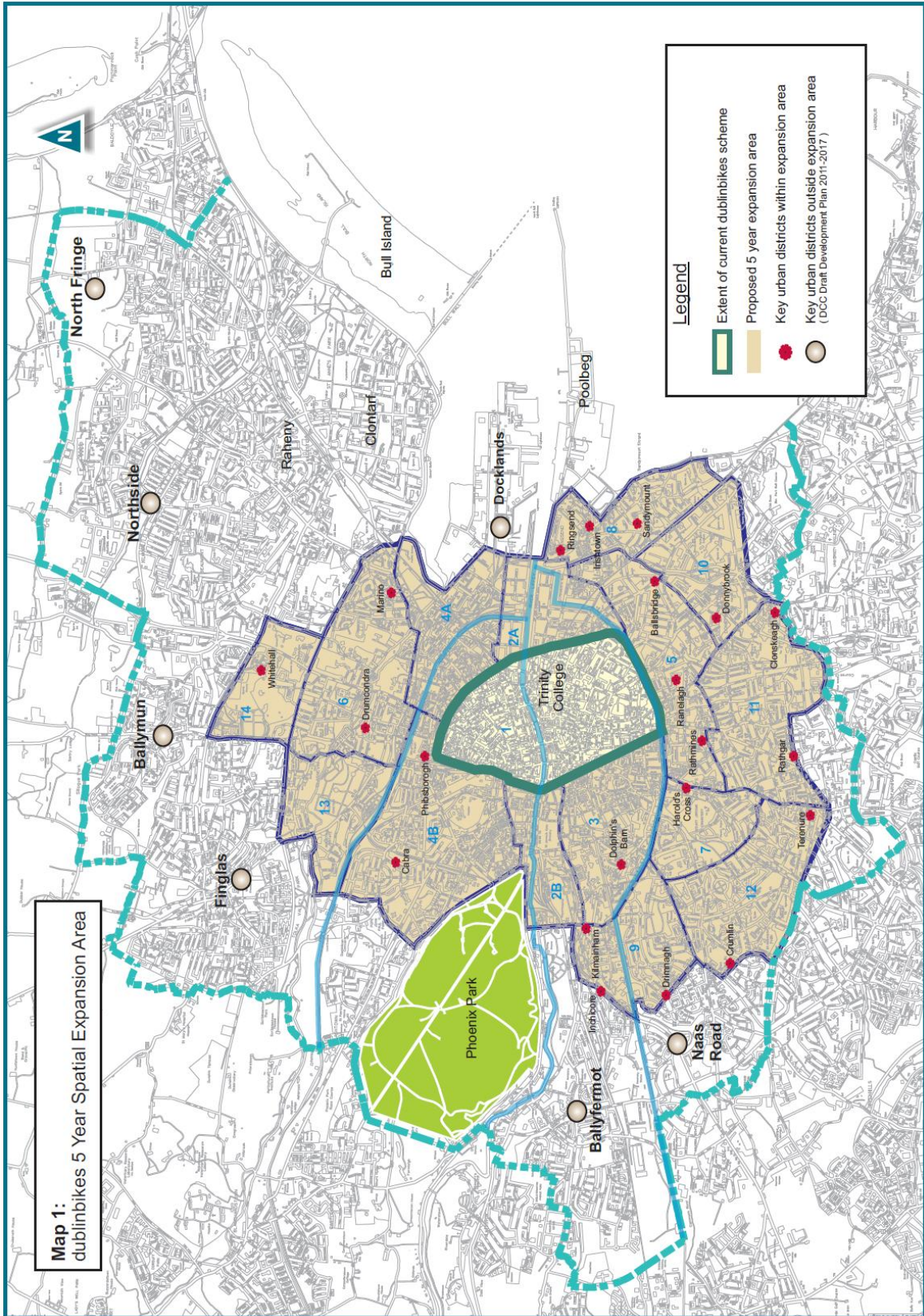
Acting Assistant City Manager

dublinbikes Proposed Expansion



APPENDIX 2

Coca-Cola Zero dublinbikes Expansion - Phasing Map



**Report to the Planning and International Relations
Strategic Policy Committee
April 2016**

**UK Planning Legislation Report on
Recent/Proposed Changes to Permitted Development**

This report looks at recent and proposed changes to permitted development rights in the UK. Permitted development which is a general planning permission granted from Parliament, rather than by the local planning authority, would equate to exempted development under the Planning and Development Act and Regulations in an Irish context. This report is in two sections; the first looking at proposals from HM Treasury in relation to national productivity, section 2 assessing recent changes to permitted development arising from the Town and Country Planning (General Permitted Development) (England) Order 2015

Section 1 - Proposals from HM Treasury July 2015

In a document entitled *Fixing the Foundations: Creating a more Prosperous Nation (2015)*, presented to the UK Parliament in July, the UK Treasury has identified areas that it believes need to be addressed in order to increase national productivity, including the planning sector.

In relation to planning, the key theme addressed is that of housing delivery and perceived delays inherent in the UK planning system. Areas proposed to be changed include:

- A zonal system for brownfield sites that include automatic permission in principle on such sites included in the existing statutory register of brownfield sites suitable for housing, subject to approval of “a limited number of technical details” (not indicated in the document). It is also indicated that there will be compulsory purchase reforms (within this session of Parliament) to provide “clearer, faster and fairer” system for the delivery of brownfield land through CPO.
- Proposals in London to remove the need for planning permission for upwards extension for a limited number of stories and up to the height of an adjoining building, subject to no objection from neighbouring residents. In the event of objection from neighbours, the application will be considered in the normal way, but this a focus on the impact on the amenity of neighbours.
- Proposals to streamline the length of preparation of local plans
- Strengthening of guidance on the duty for local authorities to cooperate on key housing and planning issues
- Considering how policy can support higher density housing around commuter hubs.

- Addressing delays in decision making (note UK system does not provide for default permission or a statutory timeframe for making decisions, notwithstanding 26 week 'planning guarantee')
- More devolved powers for mayors
- Modifications to Starter Homes and Right to Buy provisions already extant in U.K.
- Restriction on tax relief for landlords in relation to finance costs (in order to, inter alia, "start to shift the balance between landlords and homeowners").

Implications/Transferability to Irish context

The issue of time delay on plans and applications is not particularly relevant to an Irish context having regard to statutory period for decision making and preparation of plans which pertains in Ireland.

The proposal for permitted development for upwards height extensions would have implications for third party rights in Ireland.

The idea of automatic permission in principle on brownfield sites would need careful consideration given brownfield sites in Dublin are largely within existing urban fabric. Nevertheless, the SDZ model, which fast tracks development which accords with the SDZ is working well on 2 major brownfield sites in the city, Grangegorman and Docklands.

There is a potential lack of planning/design oversight on brownfield sites that have permission in principle. e.g. the desire for mixed use developments and urban design and townscape issues if 'permitted development' type rights extend to brownfield sites for purely housing developments.

Careful consideration would need to be given to the planning consequences of the concept of extra height provided neighbours raise no objection as this may not necessarily result in proper sustainable planning. It should be noted that the Dublin City Development Plan allows for replacement buildings of the same number of storeys in order to allow for upgrade of first generation low ceilinged offices/apartments.

Section 2 - Existing Permitted Development Rights

In April 2015 the Town and Country Planning (General Permitted Development) (England) Order 2015 came into force, which is the most significance change to permitted development in England in recent years. Permitted development is subject to certain limitations and conditions. For instance, permitted development may not apply within the curtilage of a listed building (protected structure).

Key examples of development permitted under Schedule 2 of the Order, includes the following:

- A change of use of a building and any land within its curtilage from offices to dwelling house is permitted development up to 30th May 2016.
- Change of use from retail or betting office or pay day loan shop to residential is permitted development with an upper floor limit of 150sqm.
- A change of use from storage or distribution buildings to residential is permitted development with an upper limit of 500sqm of floor space for a three year period (Part 3, Class P).
- Amusement arcades/centres and casinos, which are sui generis uses can change to residential use with an upper floor limit of 150sqm.

- Development consisting of a change of use of a building and any land within its curtilage from shops, financial and professional services, restaurants and cafes, drinking establishments, hot food takeaways, business, non-residential institutions and assembly and leisure or a use as a betting office or pay day loan shop, to a flexible use falling within class uses for shops, financial and professional services, restaurants and cafes or business, for a single continuous period of up to 2 years beginning on the date the building and any land within its curtilage begins to be used for the flexible use is permitted development with an upper floor limit of 150sqm (Part 4, Class D).

There are a number of permitted development rights that require prior approval from planning authorities on issues such as noise impacts, transport and highways impacts, siting/design, hours of operation, flooding etc. These are set out under the relevant class conditions and elsewhere in the Order.

Full details of the development permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 can be viewed at:
http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi_20150596_en.pdf.

Reaction in England

One in five of around 5,000 applications to convert offices into flats across England under permitted development rights (PDR) were blocked by councils between April 2014 and June 2015. This was by means of the refusal of the 'prior approval' requirements of the permitted development rights indicated above.

The change to permitted development has proved popular with developers who are able to save time and money through having greater certainty around the planning process and not needing to provide affordable housing. This enhances the viability of conversions – which can often be complex and costly on account of the work needed to fix up old buildings.

While many councils welcomed the proposals - which allowed derelict office blocks to be restored for new homes - others ardently opposed the plans. Six London councils lost a legal challenge in December 2013 to overturn PDR. Claims by Islington, Camden, Richmond upon Thames, Lambeth, Sutton and Tower Hamlets councils were dismissed by the High Court.

They had argued that the policy is a free-for-all, with no control over the quality or size of the new flats being built and no requirement for on-site affordable housing. Permitted development rights also reduce the influence of conservation societies and other local groups who want a say in the shape and character of their neighbourhood. For developers, conversions are financially compelling as the buildings can be worth up to three times more as residential in the current UK market. Although profitable for builders, converted blocks with no balconies or gardens are often not suitable for families to live in.

Implications/Transferability to an Irish context

Any changes to exempted development provisions in Ireland would need to be instigated at a national level as it would require changes to the 'Planning and Development Regulations 2001' (as amended).

The potential transfer of some of the permitted development provisions aimed at increasing the supply of residential accommodation would have significant implications for third party appeals.

Other issues which would need to be resolved include in relation to the quality of residential accommodation delivered and the delivery of Part V housing.

Source Information

Briefing Paper Number 00485, 26 August 2015, Permitted Development Rights, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN00485#fullreport>

Briefing Paper Number 01301, 27 May 2015, Planning: Change of use, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01301>

Briefing Paper Number 06418, 30 September 2015, Planning Reform Proposals <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06418#fullreport>

Explanatory memorandum to the Town and Country Planning (General Permitted Development) (England) Order 2015 No. 596, The Town and Country Planning (Compensation) (England) Regulations 2015 No 598 and the Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 No. 597, http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksiem_20150596_en.pdf

Fixing the Foundations: Creating a more Prosperous Nation

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443897/Productivity_Plan_print.pdf

The Town and Country Planning (General Permitted Development) (England) Order 2015 No. 596, http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi_20150596_en.pdf.

The Town and County Planning (Use Classes) (Amendment) (England) Order 2015 No. 597, http://www.legislation.gov.uk/uksi/2015/597/pdfs/uksi_20150597_en.pdf

Paul Clegg
Executive Manager

Report to the Planning, International Relations & Property Development Strategic Policy Committee April 2016

Planning Enforcement procedure

The procedure to be followed on receipt of a complaint alleging a breach of planning legislation (carrying out unauthorised development) is contained in Part VIII (sections 151 to 164 of the Planning and Development Acts 2000-2015).

Carrying out unauthorised development is an offence (section 151). Unauthorised development is defined in the legislation as (1) carrying out works or making a material change of use of any lands or property that is (a) not exempt from requiring planning permission or (b) for which planning permission has not been granted or (2) carrying out a permitted development other than in conformity with that permission.

As carrying out unauthorised development is an offence for which the offender may be heavily fined or imprisoned, it is essential that the rights afforded to all people facing prosecution are respected by the Council in its investigation of a complaint. In particular, the Council must follow the procedures set out in the legislation. Failure to do so could lead to the dismissal of enforcement proceedings.

Initial complaint

On receipt of a complaint in writing, the Council must issue a warning letter to the developer, land owner and occupiers concerned within six weeks of the complaint being received. Usually the developer, landowner and occupier are one and the same person but not always. The letter must:

1. Inform the recipient of the allegations made
2. Advise him that he/she has up to four weeks to respond in writing to the allegations
3. Warn him/her of that authorised officials of the Planning Authority may enter the land or property concerned at all reasonable times to carry out an inspection
4. Warn him/her that an enforcement notice may issue if unauthorised development is found to have taken place
5. Explain the possible penalties involved where an offence has occurred, and
6. Explain that costs may be payable if enforcement proceedings become necessary.

As people facing possible prosecution have a right to know the charges they may have to face and also have a right to answer those charges, the warning letter must contain full details of the alleged breach to provide an adequate opportunity to respond to the allegations. However, the Council may not issue a warning letter, enforcement notice or take any other enforcement proceedings once seven years has elapsed since the *commencement* of development. For these reasons, the following information is essential at the outset of any case:

1. Precise address of the alleged development
2. Details of the development taking place and the reason why the correspondent considers that it may be unauthorised, and
3. Approximate date development commenced.

Without this information, delays may occur in the issue of the warning letter with consequent delays in completing the investigation.

Case investigation

As soon as a warning letter issues, the complaint is referred to the area Planning Enforcement Officer to begin his/her investigation. Each investigation includes an examination of the planning history of the site, other development on the land and adjoining lands as well as a review of the relevant legislation, including decisions on section 5 references* and case law.

An inspection of the development is also undertaken. Having examined all the relevant issues, inspected the site and considered any response to the warning letter, the Case Officer makes a recommendation as to enforcement action.

Planning legislation holds that the Planning Authority must have an objective to complete each investigation within a period of 12 weeks. However, this period is not obligatory as it is not possible to know how long any particular investigation may take. The time taken to complete a case is dependent on the ready availability of evidence, the attitude of the developer and the resources available to the Planning Authority.

Decision on enforcement

When making a decision on whether to issue an enforcement notice, regard must be had to written representations from complainants, any response to the warning letter, the Council's own findings and any other material considerations. The Council cannot rush into premature issue of an enforcement notice except in urgent circumstances.

The decision to take enforcement action is subject to challenge either by judicial review or during subsequent court proceedings. Therefore, the decision must be sustainable from the Council's own findings and first hand information. The Council cannot rely on information provided by a third party unless it can verify the information for itself. Nor can it succumb to pressure from complainants to take enforcement action. The reasons behind the decision must be included in the Council's Planning Register.

An enforcement notice must issue unless the unauthorised development is of a minor or trivial nature or compelling reasons apply. 'Compelling reasons' for deferring a decision or for deciding not to serve an enforcement notice are not articulated in the legislation but normally arise from the personal circumstances of the developer and are thereby confidential.

Enforcement Notice

As failure to comply with the requirements of an enforcement notice constitutes an offence, the notice itself must be clear and unambiguous. It must refer to the land concerned, set out the steps that must be taken and specify a period within which the works are to take place. The period allowed must provide a reasonable time having regard to the extent of works to take place.

A person who has carried out unauthorised development has a right to seek retention permission. While the Planning Acts provide that enforcement action should not be stopped or deferred simply because retention permission has been sought or granted, a decision on such application could have an important bearing on the requirements of the notice. Therefore, where a decision is imminent, it may be prudent to await the decision rather than have to withdraw the notice and serve a new one.

Legal proceedings

Failure to comply with the requirements of an enforcement notice constitutes an offence (separate from the offence of carrying out unauthorised development in the first instance). Prosecution for failure to comply with the notice takes place in the District Court and may result in a conviction and fine against the developer and the grant of a Court Order directing compliance with the requirements of the notice.

As an alternative to issue of an enforcement notice and subsequent summary proceedings in the District Court, injunctive proceedings may be taken in the Circuit or High Court. Injunctive proceedings may result in higher fines and can be very effective as failure to comply with a Circuit or High Court Order constitutes a serious offence. However, unlike the direct, verbal evidence presented to the District Court, evidence to the Circuit and High Courts is by way of written Affidavit which must be issued to the defendant who then must be provided with an opportunity to reply. As a result, injunctive proceedings can be long drawn out.

Unlike a warning letter or enforcement notice which can be served on a developer at the address at which the development is being carried out if his whereabouts are unknown or served on 'the owner' or 'the occupier' if his identity is unknown, legal proceedings for non-compliance with a notice may only be taken against a named individual and the summons must either be served on him at the address at which he normally resides or given to him by hand. In addition, legal proceedings can only be taken when the defendant is within the jurisdiction of the courts.

* Section 5 of the Planning and Development Acts 2000-2015 provides that where any question arises as to what, in any particular case, is or is not development or is or is not exempted development, a person may request an opinion from the Planning Authority.

Enforcement action cannot be based on a determination under section 5 alone, but must follow a separate investigation under section 153 of the Acts.

Paul Clegg
Executive Manager

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