

Chief Executive's report to Elected Members on
submissions received in relation to the Limerick City
& County Council Draft Development Contribution
Scheme
2017-2021

20th December 2016



[Forward Planning](#)

Limerick City & County Council
7-8 Patrick St,
Limerick

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1.1 Introduction

Section 48 of the Planning & Development Act 2000 as amended enables the Planning Authority when granting planning permission under Section 34 of the Act, to include conditions requiring the payment of a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided, or that is intended to be provided, by or on behalf of the Local Authority, regardless of other sources of funding for the infrastructure and facilities.

Subsection (2) & (3) of Section 48 of the Planning & Development Act 2000 as amended specifies that a scheme shall:

- set out the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.
- make provision for payment of different contributions in respect of different classes or descriptions of development.
- allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.
- indicate the contribution to be paid in respect of different classes of public infrastructure and facilities which are provided, or to be provided by the local authority having regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.
- facilitate the phased payment of contributions and may require the giving of security to ensure payment of contributions.

This report presents the submissions made following publication of the Limerick City & County Draft Development Contribution Scheme 2017-2021. It sets out the Chief Executive's responses to the issues raised and recommends amendments to the draft scheme. The report is part of the statutory procedure for preparing a contribution scheme as set out in Section 48 (6) of the Planning and Development Acts, 2000 as amended.

1.2 Structure of the Chief Executive's Report

This report is presented in four sections. The first section details the reasons for the proposed scheme, the requirement for the preparation of the report and outlines the report structure. The second section summarises the issues raised in the submissions and sets out the Chief Executive's response and recommendation regarding same.

Section 3 presents any proposed amendments to the scheme arising from the submissions received.

Any paragraph, policy or objective to be amended in the proposed Scheme is reproduced in full with deleted text shown ~~struck through~~ and additional text shown underlined.

Finally, section 4 concludes with the Chief Executive's recommendation.

1.3 Preparation of proposed Scheme and next steps

The draft scheme was prepared in accordance with the DoECLG Development Contribution Guidelines for Planning Authorities and Circular PS 21/2013 in relation to "the transfer of water service function to Irish Water: planning issues" which set out that "New development contribution schemes made by planning authorities after 1st January 2014 should not contain charges in respect of water services infrastructure".

The Draft Contribution Scheme was presented to the elected members at Full Council workshops and to the Economic Development, Enterprise and Planning SPC on the 14th of June 2016, the 4th of July 2016, the 8th of September 2016 and the 3rd of October 2016 and then placed on public display from the 20th of October to the 2nd of December 2016 inclusive. A copy was also circulated to the DoHPCLG and the Public Participation Network.

A total of 7 written submissions were received within the statutory timeframe.

In accordance with the requirements of Section 48 (6) of the Planning and Development Act 2000 as amended, the Chief Executive has prepared this report on valid submissions and observations received, and on any matters arising from the above consultations. This report, called a Chief Executives Report, contains the following information;

- A list of the persons who made submissions or observations;
- A summary of issues raised;
- The opinion of the Chief Executive on the issues taking account of the proper planning and sustainable development of the area.
- Details any proposed modifications to the scheme.

Not later than 6 weeks after receipt of the Chief Executive's Report the Members of the planning authority shall consider the Draft Scheme and this Chief Executive's Report and in accordance with section 48 (8) of the Planning and Development Act 2000 as amended shall make the scheme, unless it decides, by resolution, to vary or modify the scheme, otherwise than as recommended in the Chief Executive's report or otherwise decides not to make the scheme.

Section 2: Submissions

Sub. No.	Submission Received From
1	Brendan Buggy, DoHPCLG
2	Eileen Prendiville
3	Eamon Ryan, Head of Enterprise, Limerick City and County Council
4	Conor O' Connell – Construction Industry Federation – Mid-West Branch, Southern Region
5	Cllr Cian Prendiville
6	Jerry Barnes, Director, MacCabe, Durney, Barnes on behalf of Glencore
7	Simon Bradshaw, Planner, GVA on behalf of Tesco Ireland

1.	Name/Group:	Brendan Buggy, Department of Housing, Planning, Community and Local Government
	Submission:	Response
	<p>a. Request details on the date and newspapers in which the Draft Scheme was advertised.</p> <p>b. Queries if Limerick City and County Council considered policies adopted by other local authorities in the immediate areas.</p> <p>c. Questions if the draft scheme provide for waivers in the case of change of use permissions, where change of use does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure.</p>	<p>a. Notice of the Draft Development Contribution Scheme was published in the Limerick Leader on the 15th of October 2016.</p> <p>b. In preparing the Draft Contribution Scheme the Planning Authority carried out a review and comparison of the Limerick City and Limerick County existing schemes. The schemes in the adjoining counties and beyond were also examined particularly with regard to the costs proposed for development by categories. One particular example where alignment was introduced is incentives for Marine related industry at strategic sites along the Shannon Estuary which is the same approach adopted in the Clare Contribution Scheme.</p> <p>c. Change of use permissions has been considered and the following text is included in the draft scheme: "Applications for change of use shall be charged at the rate appropriate to the new use, subject to a reduction in respect of the contribution rate appropriate to the existing usage." This wording was proposed by our Elected Members. However, taking into account the Guidelines it considered appropriate that the wording is altered to allow for a waiver where change of use does not lead to increase demand on services.</p>

	<p>d. The submission queries if the issue of double charging has been considered - “the practise of double charging is inconsistent with both the objectives of levying development contributions and with the spirit of capturing “planning gain” in an equitable manner. Authorities are reminded that any development contribution already levied and paid in respect of a given development should be deducted from the subsequent charge so as to reflect that this development had already made a contribution”</p>	<p>d. The Planning Authority are satisfied that the scheme does not double charge as it includes the following text.</p> <p>"Note: Where a particular development comes within the remit of more than one category of reduced contributions, only one such reduction shall be applied. In this instance, the Council shall apply the category where the greater percentage reduction applies."</p> <p>"Change of use applications where the contributions have not been paid previously will be subject to contributions at the appropriate rate. Applicant's agent shall provide evidence of proof of payment at application stage in order to expedite assessment and avail of this provision."</p> <p>"Replacement applications where the contributions have not been paid previously will be subject to contributions at the appropriate rate. Applicant's agent shall provide evidence of proof of payment at application stage in order to expedite assessment and avail of this provision."</p>
	<p>Chief Executive's Recommendations:</p>	
	<p>It is recommended that:</p> <p>a. & b. – no change recommended</p> <p>c. It is recommended that the text of the Contribution Scheme is altered to provide for a waiver where change of use does not lead to extra demand on services. The new text should read as follows:</p> <ul style="list-style-type: none"> • “Where a proposed change of use does not lead to the need for new or upgraded 	

	<p>infrastructure/services or a significant intensification of demand placed on existing infrastructure and where a contribution was paid previously for the existing use, the development shall be exempt from paying a contribution. In all other circumstances the change of use shall be charged at the rate appropriate to the new use, subject to a reduction in respect of the contribution rate already paid for the existing use.”</p> <p>d. – no change recommended</p>
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2.	Name/Group:	Eileen Prendiville
	Submission:	Response
	<p>a. Ms Prendiville expresses concern and dissatisfaction that the contributions have been cut for developers at a time when the household expenses are increasing and when funds are needed for essential infrastructure. Ms Prendiville urges the Planning Authority to reconsider and to set the Development Contributions at their current levels under the existing schemes.</p>	<p>a. In preparing the Draft Development Contribution Scheme the Planning Authority have assessed the operation of the current schemes and have sought to align them. This will allow for a scheme that is easier to understand and apply. In relation to the reduction in proposed contributions in certain circumstances eg. Office developments in the City Centre, the Planning Authority have reduced charges where costs were found to be excessively high and prohibitive in comparison to other counties for such use.</p> <p>In relation to the proposed residential rate regard was had to the shortage of houses for sale and available for rent. Therefore the scheme was prepared taking into account Government policy in relation to encouraging and accelerating house building.</p> <p>Equally the reductions to the contributions are hoped will</p>

		stimulate a level of development which will have a wide reaching benefit in the local economy.
	Chief Executive's Recommendations:	
	No change recommended.	

3.	Name/Group:	Eamon Ryan, Head of Enterprise, Limerick City & County Council
	Submission:	Response
	<p>a. Submission offers clarity in relation to how the IDA/Enterprise Ireland and Limerick Enterprise Office (LEO) provide grant aid to businesses. The submission sets out that in the past it was more likely that capital grants might be approved for construction of commercial premises, however because of the nature of the grant aid being approved by LEO at present a client who is seeking planning for a development of workspace would lose out to this reduction as the draft scheme specifies “development grant aided” and would not apply if the business itself was grant aided, that is a business could be grant aided by LEO for business expansion which could include a new workshop or premises but the capital cost of the building itself is unlikely to be grant aided.</p> <p>A suggestion is that instead of “a 50% reduction applied to development grant aided by IDA/Enterprise Ireland and the Limerick Enterprise Office” that the reduction is reworded to “50% reduction applied to development where the applicant’s business is grant aided by the IDA/Enterprise Ireland or the Local Enterprise Office.”</p>	<p>a. The Development Contributions – Guidelines for Planning Authorities 2013 specify that “waivers or reduced rates of development contributions for businesses grant aided or supported by IDA/Enterprise Ireland/Shannon Development/Udaras na Gaeltachta, as well as reduced rates for developments that would progress the Government’s Jobs Initiative” should apply.</p> <p>The spirit of the reduction proposed in the Draft Scheme was to reflect the above Guidelines however the suggested amendment as set out in the submission will be included in the new scheme for clarity purposes.</p>
	Chief Executive's Recommendations:	

	It is recommended that the following amendment is made “A 50% reduction will be applied to development where the applicant’s business is grant aided by the IDA/Enterprise Ireland or the Local Enterprise Office.”
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4.	Name/Group:	Conor O’ Connell, Construction Industry Federation, Mid West Branch, Southern Region
	Submission:	Response
	<p>a. Submission welcomes one Development Contribution Scheme for the City and County and the extra clarity provided in relation to applying a per sqm charge for developments.</p> <p>b. The Construction Industry Federation (CIF) consider it unnecessary to charge for residential development given the housing shortages in the environs of the City and consider that the local property tax results in double taxation on newly built homes. The submission considers that property tax should replace the current development contribution levy for residential development.</p> <p>c. The significant reduction for developments in the Regeneration Areas is welcomed.</p>	<p>a. Submission noted</p> <p>b. The charge for residential development in the Environs of the City has been reduced in the current scheme to reflect the need to respond to the market demand for housing. The Contribution Scheme has aimed to strike a balance between the charges imposed for development and the funds required by the Local Authority to provide infrastructural provision and improvements through the contribution scheme.</p> <p>c. Submission noted</p>
	Chief Executive’s Recommendations:	
	No change recommended	

5.	Name/Group:	Cllr Cian Prendiville
	Submission:	Response
	<p>a. Submission sets out that the Draft Contribution Scheme amounts to a major tax cut for property developers in the City at the expense of public investment, particularly with regard to charges sets for office blocks in the City and for housing development in the suburbs.</p> <p>Submission sets out that arguments for cutting development levies does not add up: The arguments that the reduction in costs are needed to stimulate development, will result in the Planning Authority bringing in more revenue and will significantly reduce the costs of new houses is not accepted. The solution offered for the provision of affordable housing is for the state to invest in a massive programme of directly building social and affordable homes and to acquire some of the stock of vacant homes in Limerick to renovate and use for public housing. This would mean raising taxes on big business and developers.</p> <p>b. The proposal to cut development contributions will add to growing inequality and exacerbate the gross tax injustice faced by working people. Further it will contribute to the rich</p>	<p>a. The Planning Authorities aim was to strike a balance between the funding of public infrastructure and the need to encourage economic activity and promote sustainable development patterns. With regard to office rates and to encourage economic growth and to booster job creation in the City Centre it is proposed to reduce office rates in the City to €25 per sqm from €75 per sqm. In relation to residential development the scheme reflects national policy, such as the Action Plan for Housing and Homelessness, Rebuilding Ireland, published by the Department of Housing, Planning Community and Local Government, in July 2016, which aims to accelerate the delivery of housing and other policy documents such as Construction 2020. To stimulate residential development, the scheme proposes a rate of €20 per sqm for residential development across the City and County, with the exception of City and Town Centre Areas, Regeneration Areas and infill sites and sites on the Derelict Sites Register in Towns and Villages , which are proposed at €7 per sqm. The objective of this is to strengthen our towns and villages by encouraging increased residency rates.</p> <p>b. Please refer to above</p>

	<p>getting richer</p> <p>c. Cut in the levy for Office developments will cost €4.5m. The proposed rate for Office was amended three times during the course of consultation on the behest of some of the elected members. Proposed that office rates should be revised and set at €100 per sqm generally with a 25% reduction for the City Centre area as this would result in a restoration of levies necessary for capital spending. Stated that previous reductions were made in the 2014 Development Contribution Scheme.</p> <p>d. Cuts for housing developers will result in further loss of revenue. This is compounded by previous reduction in residential rates in the 2014 scheme. Proposal is to maintain levies for the City Centre and suburbs as under the previous schemes with the possibility of reintroducing a charge based on minimum floor areas. Consideration should also be given to a levy rebate scheme for houses that are not sold on after being built – as in cases where someone builds their own home or a partial rebate for average cost homes which are sold to owner occupiers rather than as investment properties.</p> <p>e. €72m worth of projects have been identified in need of funding with €24m of this to come from the Contribution Scheme. The estimated yield is anticipated at €19.86m which will result in a shortfall of €4m. Concern that many of the capital projects identified would not proceed. It is set out that these projects could proceed if the existing levies were maintained. If</p>	<p>c. Please refer to above. The Draft Contribution Scheme is proposed for a period of 5 years. The Planning Authority will monitor the operation of the scheme and have the discretion to review the Scheme prior to 2021 should it become apparent that the Scheme is not working efficiently. In relation to Office rates a review of adjoining Authority rates highlighted that the current rates in Limerick City and County were much higher than our adjoining neighbours.</p> <p>d. Submission is noted and reference is made to the responses set out above in items a. and c. For ease of application and clarity purposes a per sqm charge was introduced to the Draft Scheme for all residential developments.</p> <p>e. Submission is noted and reference is made to the responses set out above in items a. and c.</p>
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	<p>extra revenue was raised additional projects may be undertaken. The submission urges an investment in Limerick.</p> <p>The submission concludes by urging the elected members to maintain the levies at the current rates.</p>	
	Chief Executive’s Recommendations:	
	No change recommended.	

6.	Name/Group:	Simon Bradshaw – GVA on behalf of Tesco Ireland Ltd
	Submission:	Response
	<p>a. The Draft Contribution Scheme is welcomed. Submission relates directly to <i>“Open storage/Hard surface commercial space development, other than car parking shall be liable for development contributions at one third of the relevant rate”</i>. The concern in relation to this charge is that a service yard ancillary to a retail use could fall within the above parameter. Submission contends that if the scheme is amended in line with the above potential retail developments may not be viable. The issue may also arise where service yards are being improved. Further it is argued that in the case of a retail development, contributions will already have been paid on the basis of the gross floor area of the development. The submission contends that this would lead to double charging. The submission concludes that clarification should be added to the charge where ancillary storage areas are not liable for contributions.</p>	<p>a. The Development Contributions – Guidelines for Planning Authorities 2013 specify that there is a duty to ensure double charging does not result from the Development Contribution Scheme. The spirit of the Draft Scheme sought to reflect this. However for clarity purposes it is recommended that the wording shall be amended to exempt a development where ancillary space is provided and contributions have been paid for the primary use on site.</p>
	Chief Executive’s Recommendations:	

	It is recommended that an amendment is made as follows: “Open storage/Hard surface commercial space development, other than car parking shall be liable for development contributions at one third of the relevant rate unless the use is an ancillary use, in which case no charge shall apply to the open storage/hard surface area.”
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7.	Name/Group:	Jerry Barnes, MacCabe Durney Barnes on behalf of Glencore
	Submission:	Response
	<p>a. Submission made on behalf of Glencore, an international mining and commodities company which mines, smelts and refines metals including zinc and lead. The company have carried out comprehensive prefeasibility assessment and explorations in Pallasgreen and Caherconlish. The potential application for this process is covered in the Contribution Scheme and a proposed charge of €10,000 per hectare is to be levied on the use of land for mining or refining metal ore, such as lead, zinc or copper.</p> <p>The submission sets out that the scheme does not appear to provide a basis for the allocation of costs to the mining category of development and argues that same is required under Section 48(1) of the Act. The categories of infrastructure are detailed as roads, surface water and community infrastructure. The submission contends that the water element is entirely removed and that there will be no probable significant demands on local road infrastructure as transportation is likely to be principally by rail which will require significant investment. Because of this and in the context of the provision to impose a special contribution the submission suggests that a more appropriate contribution rate would be €6,000 per hectare in line with the charge proposed for quarrying of rock,</p>	<p>a. In developing the Draft Development Contribution Scheme the Planning Authority sought to strike a balance between the funding of public infrastructure and the need to encourage economic activity. Part of the review of its previous schemes involved carrying out a comparison with other adjoining counties. In this respect the levy set for mining in Limerick compares favourably with the likes of Tipperary where a charge of €17,500 per hectares applies.</p> <p>The reference to the use of rail for this development is noted and welcomed however in absence of specific information relating to where materials will come from and where they will be collected it is difficult in the short term to see the feasibility of using the rail network solely without the need to use the local road network. It is considered that the proposed charges for mining should remain as set out in the Draft Scheme.</p>

	<p>sand and gravel.</p> <p>b. The provision for the application of a Special Contribution lacks clarity and undermines the business case for this project.</p>	<p>b. The facility to apply a Special Contribution to a development is provided for under Section 48(2)(c) of the Planning and Development Act 2000 in cases where exceptional costs which have not been covered by the general scheme are incurred by a local authority in the provision of a special public infrastructure or facility. The provision in the Draft Scheme states “In addition a Special Contribution may be applied to these developments on an individual basis”. It is considered that the inclusion of the above allows for discretion on the part of the Local Authority to apply a Special Contribution if warranted.</p>
	<p>Chief Executive’s Recommendations:</p>	
	<p>No change recommended.</p>	

Section 3: Recommended Amendments/Corrections to the Draft Contribution Scheme

- **Amend text under section 9, Reductions:**
- 50% reduction for Development grant aided by the IDA/Enterprise Ireland or Local Enterprise Board. will be applied to development where the applicant’s business is grant aided by the IDA/Enterprise Ireland or the Local Enterprise Office.”
- **Amend text under section 10, Change of use:**
- Where a proposed change of use does not lead to the need for new or upgraded infrastructure/services or a significant intensification of demand placed on existing infrastructure and where a contribution was paid previously for the existing use, the development shall be exempt from paying a contribution. Applications for In all other

circumstances the change of use shall be charged at the rate appropriate to the new use, subject to a reduction in respect of the contribution rate already paid for the existing use appropriate to the existing usage.

- **Amend text under Appendix A: Commercial Development (charge per sqm)**
- Open storage/Hard surface commercial space development, other than car parking shall be liable for development contributions at one third of the relevant rate unless the use is ancillary, in which case no charge shall apply to the open storage/hard surface area.

Section 4: Chief Executive's Recommendation

In accordance with Section 48 of the Planning and Development Act 2000 (as amended), it is recommended that the Development Contribution Scheme is made in accordance with the Draft Development Contribution Scheme published on the 20th of October 2016, subject to modifications recommended in the Chief Executive's response set out above in this report.