

Kerry Education and Training Board
Bord Oideachais agus Oiliúna Chiarraí

Minutes of Kerry Education and Training Board (Kerry ETB) meeting held via Video Conference on Wednesday July 14th 2021.

In Attendance:

Cllr. Jim Finucane
Cllr. Michael Cahill
Cllr. Fionnán Fitzgerald
Cllr. Norma Moriarty
Cllr. Aoife Thornton
Ms. Catriona Kerin
Mr. Tim Daly
Ms. Joan McCrohan
Ms. Celia O'Shea

Cllr. Terry O'Brien
Cllr. Johnnie Wall
Cllr. Deirdre Ferris
Cllr. Niall O'Callaghan
Mr. Noel Keenan
Ms. Maria O'Gorman
Mr. John O'Roarke
Mr. Zaid Kassoob

Mr. Colm Mc Evoy, Chief Executive Officer (CEO), Ms. Maria Brennan, Director of Organisation Support and Development (OS&D), Mr. Owen O'Donnell, Director of Further Education and Training (FET), Mr. Tommy Conroy, Head of Finance, Ms. Aileen O'Connor, Head of Corporate, Capital and Technology (CCT) Department, Ms. Betty Corkey, Head of Human Resources, Mr. Pdraig O'Sullivan, Buildings Officer, Ms. Karen Griffin, Executive Support and Ms. Catherine Horgan, Executive Support were also in attendance.

As per Section 1.18 of Circular Letter 0002/2019, the conflict of interest document was circulated electronically to be signed prior to the meeting to the Members (a copy of which is attached to the minutes). The Chairperson asked Board Members to verbally declare any conflicts of interest before commencing with the meeting.

07/2021/1	APOLOGIES & CONDOLENCES LEITHSCÉALTA AGUS COMHBHRÓN
1.1	<p>Apologies/Leithscéalta:</p> <ul style="list-style-type: none"> ➤ Mr. Joe Brennan ➤ Cllr. Marie Moloney
1.2	<p>Condolences/Comhbhrón:</p> <p>There were no condolences notified this month.</p>

07/2021/2	AGENDA CLÁR
2.1	<p>Kerry ETB Policies for Approval – as circulated</p> <p>The following policies were circulated prior to the meeting and presented to the Board for approval by the Director of OS&D, Ms. Maria Brennan:</p>

- Procurement (Purchases) up to €25,000 using public funds under grant from Kerry ETB – Guide for Grant Recipients
- Revision to Appendices A-C of the Third Party Governance Policy
- Revision to Appendix 9 of the Procurement Policy & Procedures for purchases up to €25,000 and the Procurement Policy & Procedures over €25,000

The Board approved the policies as presented by the Director of OS&D.

Proposed: Cllr. Terry O'Brien
Seconded: Mr. Noel Keenan

2.2

Land and Leases – Further Education and Training Update on FET Accommodation, Tralee Proposal as addressed at the June 23rd 2021 Board Meeting

As per discussions at the June 23rd 2021 Board Meeting, the FET Accommodation Proposal for Tralee, as circulated with the Agenda, was tabled for further consideration and decision by the Board

The Director of FET, Mr. Owen O'Donnell advised that following the June Board Meeting, Kerry ETB's Legal Advisor contacted the representatives for Davan Borg Limited and Bio-Atlantis Limited by letter, dated July 6th 2021, requesting them to officially submit their full and final proposed terms for the leases for consideration at the ETB Board meeting on July 14th 2021.

A report by the Director of FET detailing the full and final proposed terms for the lease options was circulated to the Board Members with the July 14th 2021 Board Meeting Agenda.

The terms presented, as detailed in the Update on Expressions of Interest Report were as follows:

	DavanBorg Ltd (Unit 1)	DavanBorg Ltd (Unit 2)	DavanBorg Ltd (Units 1+2)	BioAtlantis
Indoor space available (Sq. Ft.)	33,967 sq.ft.	36,511 sq.ft.	70,478 sq.ft.	42,000 sq.ft.
Total cost per annum (incl outdoor)	€393,306	€435,261	€780,180 (€48,387 discount)	€302,580
Cost per sq. ft.	€11.57	€11.92	€11.07	€7.20
Service Charges calc @13.5% VAT	€19,361	€20,811	€40,172	€0
Total cost per annum (inc Service Charge)	€412,667	€456,072	€820,352	€302,580
Cost per sq. ft. inc Service Charge	€12.15	€12.49	€11.63	€7.20

In respect of the Davan Borg Ltd proposal there were 3 possible options, Unit 1 c. 33,967 sq. ft., Unit 2 c. 36,511 sq. ft. and Units 1 and 2 c. 70,478 sq.ft.

The Director of FET advised that analysis of the submissions was completed addressing the following in respect of the two submissions received:

Davan Borg Ltd.	BioAtlantis
➤ The lease allows for three months' rent fee period at the beginning of the term to allow for fit.	➤ The lease allows for three months' rent fee period at the beginning of the term to allow for fit.
➤ The lease is subject to a 10 year break clause for Kerry ETB	➤ The lease is subject to a 10 year break clause for Kerry ETB
➤ Kerry ETB will not be required to execute a renunciation agreement.	➤ Kerry ETB will be required to execute a renunciation agreement.
➤ The lease allows for rent reviews every 5 years	➤ The lease allows for rent reviews every 5 years
➤ For the combined option of Units 1 and. 2, the overall cost per annum if both units are leased together includes a discount of €48,386 per annum	➤ While no service charge applies, Kerry ETB would be responsible for repairing and insuring the building

As part of the discussions the CEO advised that he was not supportive of either proposal based on the proposed terms. He stated his preference was to explore options with SOLAS and the Department for a migration to ETB owned property given the existing dependence on leased accommodation for the Kerry College Monavalley Campus.

Following consideration and discussion, the Board unanimously agreed that Kerry ETB would not progress further of any of the lease options at this time.

Proposed: Ms. Joan McCrohan
Seconded: Cllr. Norma Moriarty

In progressing further options to address the FET accommodation needs in Tralee it was agreed that the following options are to be explored with SOLAS and the Department:

- Proposals for the design, build and lease to purchase

<p>2.3</p>	<ul style="list-style-type: none"> • Progression of the proposed acquisition of the South Campus, MTU Tralee <p>These options will be explored with SOLAS and the Department and an update will be provided at the next Board meeting.</p> <p>Further Education and Training Accommodation Killarney Proposal as addressed at the May 25th 2021 Board Meeting Update</p> <p>An update was provided by the Director of FET, Mr. Owen O'Donnell, addressing FET Accommodation needs in Killarney:</p> <p>As advised at the May 25th Board meeting, Kerry ETB placed an advert in the Kerry's Eye newspaper on April 22nd 2021 seeking expressions of interest for buildings of c. 20,000 sq. ft. within Killarney town Centre. As detailed in the FET Directors report at the May 25th Board meeting, two expressions of interest were received:</p> <ol style="list-style-type: none"> 1. Unit at 50 High St, Killarney comprising of c. 16,500 sq. ft. 2. Unit at 10 College Street, Killarney – McSorleys – comprising of c. 30,000 sq. ft. <p>Following review of the submissions received site visits were arranged for May 7th 2021.</p> <p>Kerry ETB on July 12th 2021 requested MRW Solicitors to contact both respondents by letter. The Board were advised that MRW Solicitors issued a letter to both respondents on July 14th 2021 requesting them to officially submit their full and final proposed terms for the leases for consideration. Kerry ETB awaits their reply.</p> <p>In addition, in addressing the longer term needs for FET accommodation in Killarney, as agreed at the ETB Board meeting on May 25th 2021, a high level proposal for submission to SOLAS and DFHERIS addressing the proposed acquisition and development of the “Sara Lee Site” in Killarney is being progressed. This is strategic development proposal for a full Kerry College Campus in Killarney.</p> <p>Work is progressing on this high level proposal, which will be presented to the Board for consideration at the next Board meeting. This proposal will address floor plan layouts, possible usage options and an overall estimate for refurbishment costs etc.</p> <p>The Board welcomed this update.</p>
<p>2.4</p>	<p>Rental Agreement for approval</p> <p>The Director of FET presented the following rental agreement for approval to accommodate FET programmes/courses in Killarney.</p>

2.5	<p>Fitzgerald Stadium & Dr. Crokes GAA Club Killarney At the Kerry ETB Board Meeting on May 25th 2021 approval was received for the lease of a property at 25 High Street, Killarney. Kerry ETB awaits sanction from the DFHERIS and SOLAS in respect of this lease, the application was submitted on June 8th 2021. Consequently, this property will not be ready for the delivery of courses for September as fit out work is required. Kerry ETB have identified alternative short term accommodation from August to end of December 2021.</p> <p>Board Approval is being sought to proceed with the following rental agreement for the delivery of FET Courses in Killarney</p> <ul style="list-style-type: none"> ➤ Duration: 19 Weeks – August 23rd 2021 to December 31st 2021 ➤ Area: 3 Classrooms c. 450 sq. ft. each. (C.1350 sq. ft. in total) ➤ Total Rent: €25,650 (€450 per classroom per week) <p>The rental agreement was approved by the Board as per the terms presented.</p> <p style="text-align: center;">Proposed: Cllr. Deirdre Ferris Seconded: Cllr. Terry O'Brien</p> <p>This lease is subject to approval by the Department and SOLAS.</p> <p>Lease Agreements for Approval The Director advised that he was presenting terms for the renewal of a number of short term leases for Board approval. These leases are to accommodate FET programmes/courses in Tralee.</p> <p>Liber House, Monavalley Industrial Estate, Tralee – Units 3H, 3I and 5D Board approval is being sought for the renewal of the current lease for Liber House Tralee for the delivery of FET Courses namely ABE, BTEI and Community Education under the following terms:</p> <ul style="list-style-type: none"> ➤ Term: 2 years from September 1st 2021 to August 31st 2023 ➤ Rent: €32,550 per annum ➤ Area: c. 1,610 sq. ft.. <p>The lease agreement was approved by the Board as per the terms presented.</p> <p style="text-align: center;">Proposed: Mr. Noel Keenan Seconded: Cllr. Deirdre Ferris</p> <p>This lease is subject to approval by the Department and SOLAS.</p> <p>Liber House, Tralee - Rooms 3J & 3K These rooms were previously rented by Kerry ETB under a “Rental Agreement” for the period from September 21st 2021 to May 30th 2021 (9</p>
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2.6	<p>months). The “Rental Agreement” was approved by the ETB Board on September 22nd 2020. Board approval is being sought for the lease of this unit which will be used for additional classrooms for Kerry College Monavalley Campus for the delivery of Apprenticeships:</p> <ul style="list-style-type: none"> ➤ Term: 1 Year from September 1st 2021 to August 31st 2022 ➤ Rent: €31,200 (€2,600 per month) ➤ Area: c. 2,500 sq. ft. <p>The lease agreement was approved by the Board as per the terms presented.</p> <p style="text-align: center;">Proposed: Cllr. Terry O’Brien Seconded: Ms. Joan McCrohan</p> <p>This lease is subject to approval by the Department and SOLAS.</p> <p>Liber House Tralee - Rooms 2A & 3C</p> <p>These rooms were rented by Kerry ETB under a “Rental Agreement” for the period from September 21st 2021 to May 30th 2021 (9 months). The “Rental Agreement” was approved by the ETB Board on September 22nd 2020. Board approval is being sought for the lease of this unit which will be used for additional classrooms for the delivery of ABE, Community Education & BTEI Courses (due to COVID-19 social distancing requirements):</p> <ul style="list-style-type: none"> ➤ Term: 1 Year from September 1st 2021 to August 31st 2022 ➤ Rent: €31,500 (€2,625 per month) ➤ Area: c. 1,310 sq. ft. <p>The rental agreement was approved by the Board as per the terms presented.</p> <p style="text-align: center;">Proposed: Cllr. Johnnie Wall Seconded: Cllr. Deirdre Ferris</p> <p>This lease is subject to approval by the Department and SOLAS</p> <p>Purchase of Unit 1, Listowel Business Development Centre Update</p> <p>The Buildings Officer, Mr. Pdraig O’Sullivan provided the following update:</p> <ul style="list-style-type: none"> ➤ Kerry ETB, on June 29th 2021, received a letter from Murphy Ramsey Walsh (MRW) Solicitors confirming that the draft “contract for sale” had been received from Shannon Commercial Properties (SCP) legal agents. ➤ Kerry ETB legal agents MRW Solicitors have reviewed the contract for sale and have reverted to SCP on a number of points. ➤ Kerry ETB, following advice received from MRW Solicitors, are engaging an engineer to undertake a review of the maps associated with the sale as well as undertaking a review of the property to ensure compliance with planning permission prior to closing the sale, the engineer will assist MRW Solicitors with closing the sale.
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2.7	<p>In addition, the Board was advised that Higgins Waste & Recycling Ltd have applied to Kerry County Council for planning permission under planning reference 21/72 to construct a waste and recycling facility on lands close to the property being purchased by Kerry ETB. From an initial review of the planning file, Kerry County Council have requested further information (RFI) from the applicant in order to finalise the assessment of the planning application. As of July 7th 2021, a response to the RFI had not been received by Kerry County Council. Kerry ETB will continue to monitor the planning file. This update was noted by the members.</p> <p>As per the provision of the ETB Act 2013, section 12 Board approval is being sought for An Cathaoirleach to sign and execute the 'contract for sale' on the recommendation MRW Solicitors.</p> <p>The Board were unanimous in approving the signing and execution of the 'contract for sale' by An Cathaoirleach.</p> <p style="text-align: center;">Proposed: Ms. Maria O’Gorman Seconded: Cllr. Fionnán Fitzgerald</p> <p>Kerry ETB Lease of Block F Monavalley Industrial Estate Tralee (Ansaldo Building) The Buildings Officer, Mr. Padraig O’Sullivan provided the following update:</p> <p>As addressed at previous meetings, Kerry ETB Block F Monavalley is sale agreed by SCP to a third party.</p> <p>Kerry ETB, in November 2020 sought SOLAS approval to purchase a building in Tralee - Block F Monavalley, immediately adjacent to the Monavalley Campus site that had come to the market for sale. For many years c. 10,000 sq. feet of this building (entire building c. 20,000 sq. feet) has been leased for training provision. Kerry ETB and formerly FÁS have been leasing c. 10,000 sq. feet of this building since July 1998. When approval to place a bid was confirmed in February 2021, the estate agent confirmed the building was sale agreed by the owners to a third party.</p> <p>Kerry ETB through our legal agents MRW Solicitors have requested details of the new owners, as Kerry ETB’s present lease for this building expired on June 30th 2021 To date no details have been furnished of the new owner. Consequently, it has not been possible to progress matters re the lease etc. with the new owners.</p> <p>Kerry ETB have engaged with MRW Solicitors re this matter and feedback was received from MRW Solicitors on June 15th 2021:</p> <p>Extract from email from MRW Solicitors June 15th 2021:</p>
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2.8	<p><i>“Provided Kerry ETB is not in breach of covenants in its Lease, then it will have secured renewal rights. So as to be fair to and give security to both landlord and tenant, there is a minimum and a maximum renewal period. The minimum renewal period is 5 years. The landlord is not obliged to grant a new lease for a period shorter than 5 years. If the tenant is prepared to take a lease of 5 years or more, then the Landlord could not possibly insist on a renunciation of renewal rights. If KETB seeks to renew for less than 5 years then the Landlord will not be obliged to entertain this request. If the parties then enter into negotiation for a new very short lease, then it is possible that the landlord could refuse to engage unless KETB surrenders its renewal rights”</i></p> <p>Given the current situation re FET accommodation in Tralee for the Kerry College Monavalley Campus, Kerry ETB continue to use this building. When details of the new owner are provided to Kerry ETB, the ETB will address the options available. A full update will be provided for the Board re same at the next meeting.</p> <p>The Board noted this update.</p> <p>Land and Leases - Other Proposed Lease from Tralee Regional Sports and Leisure Company Limited by Guarantee to Kerry County Council – for approval The Buildings Officer, Mr. Pdraig O’Sullivan provided the following update:</p> <p>The Board of Kerry ETB, at its meeting on January 26th 2021, approved the proposed Licence Agreement between Tralee Regional Sports and Leisure Company Limited by Guarantee (TRSLC) and Tralee Skate Park Community Group.</p> <p>This matter was previously addressed and discussed at the ETB Board Meeting of February 27th 2017, June 10th 2018 and July 10th 2018, December 8th 2020 and January 26th 2021.</p> <p>Following review by Kerry ETB legal agents MRW Solicitors, it was advised that in order to ensure the continued maintenance, refurbishment and governance of the facility, that the proposed development would proceed by way of lease from TRSLC to Kerry County Council.</p> <p>Board approval is being sought for the proposed Lease Agreement between TRSLC and Kerry County Council. Approval is being sought on the basis that TRSLC is required, as lessee to Kerry ETB, to apply to Kerry ETB as landlord (lessors) for their consent to any proposed lease agreement.</p> <p>Kerry ETB have been advised by MRW Solicitors that the location of the skate park will be wholly within the TRSLC leasehold folio, consequently TRSLC is</p>
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2.9	<p>the lessor. Kerry County Council has no ownership interest in land on which the skate park will be situated and therefore the creation of the lease is possible.</p> <p>The development will proceed by way of lease to Kerry County Council and not by way of Licence Agreement to Tralee Skate Park Community Group as referenced at the ETB Board meeting on January 26th 2021.</p> <p>The terms of the proposed Lease Agreement are:</p> <ul style="list-style-type: none"> ➤ Term - 10 Years ➤ Rental - €1 Per Annum ➤ Area – 800 Square Meters <p>Kerry ETB will not be a party to the lease. The Board’s consent is required in respect of the creation of the lease between Tralee Regional Sports & Leisure Company Limited by Guarantee and Kerry County Council.</p> <p>The lease agreement between TRSLC and Kerry County Council was approved by the Board as per the terms presented.</p> <p style="text-align: center;">Proposed: Cllr. Terry O’Brien Seconded: Cllr. Deirdre Ferris</p> <p>Kerry ETB Lands at Cloonmore Tralee – Site of Gaelcholáiste Chiarraí Nua</p> <p>As advised at the ETB Board meeting on June 23rd 2021 following the review of a planning application as submitted by Tulfarris CG Ltd (Planning Ref 21/513) on lands adjacent to the site of Gaelcholáiste Chiarraí Nua and consultation with MRW Solicitors, Oppermann Associates Architects & Atkins Engineering, Kerry ETB made a submission on the Planning File highlighting the concerns of Kerry ETB in relation to the application as submitted.</p> <p>On July 9th 2021, Kerry ETB received a letter from Kerry County Council confirming that the Tulfarris CG Ltd.’s planning application had been refused planning permission.</p> <p>The applicant has four weeks from the date of the decision (July 7th) to make an appeal to An Bord Pleanála. The closing date for this appeal would be August 3rd 2021.</p> <p>Following this letter Kerry ETB reviewed the final planning application online, and read “unsolicited additional information” received by the planning authority on July 2nd and July 5th 2021 which was submitted by the Tulfarris CG Ltd. agent, John Phelan Architects.</p>
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2.10	<p>Kerry ETB and MRW Solicitors are presently reviewing the “unsolicited additional information” and following detailed review will issue a letter John Phelan addressing same.</p> <p>The Board noted this update.</p> <p>Anaerobic Digestion Facility – Planning Appeal Update Kerry ETB on June 28th 2021 received a letter from An Bord Pleanála confirming that the application lodged by Sandford Energy Ltd under Planning Ref 20/673 has been refused planning permission.</p> <p>The rationale for the decision was set out within the documentation, with the absence of the Natura Impact Statement, not forming part of the planning application detailed. The applicant if they so wish may appeal to the high court for a judicial review, within a period of 4 weeks.</p> <p>On reviewing the planning notices within the Kerry’s Eye newspaper on July 1st 2021, a planning notice in the Kerry’s eye confirming that Sandford Energy Ltd intend to apply for planning permission again for site next to Causeway CS for the same development consisting of an Anaerobic Digestion facility was noted.</p> <p>Once the application has been validated by Kerry County Council, Kerry ETB will have the opportunity to review the file and if deemed necessary make a submission on the application within the statutory 5-week period.</p> <p>The Board noted this update.</p>
07/2021/3	ANY OTHER BUSINESS WITH THE PERMISSION OF AN CATHAOIRLEACH AON GHNÓ EILE LE CEAD AN CHATHAOIRLIGH
	<p>Next Kerry ETB Board Meeting: September 28th 2021</p> <div style="background-color: black; color: white; padding: 10px;"> <p>Tuesday September 28th 2021 Via Videoconference 4.15pm</p> </div>

Signed/Sínithe: _____

Date/Dáta: _____