

Ballymoney Borough Council

Health & Environmental Services Committee Meeting No 387 – 20th December 2012

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BALLYMONEY BOROUGH COUNCIL

Minutes of Health & Environmental Services Committee Meeting No 387, held in the Council Chamber, Riada House, Ballymoney on Thursday 20th December 2012 at 10.05am.

IN THE CHAIR: Alderman H Connolly

PRESENT:

Aldermen
F Campbell
C Cousley, MBE
B Kennedy

Councillors
J Finlay
R Halliday

APOLOGIES:

Councillor J Atkinson
Councillor W Blair
Councillor A Cavlan
Councillor P McGuigan
Councillor E Robinson, Mayor

IN ATTENDANCE: Director of Borough Services
Committee Clerk

387.1 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

387.2 MINUTES - Meeting No 386 – 27th November 2012

It was proposed by Alderman Campbell, seconded by Alderman Cousley and
AGREED:

to recommend that the minutes of Meeting Number 386 – 27th November 2012, as circulated, be confirmed as a correct record.

* Alderman Kennedy joined the meeting at 10.07am.

MATTERS FOR CONSIDERATION**387.3 LANDFILL ALLOWANCE SCHEME (NI) REGULATIONS 2004
SCHEME YEAR 2011-2012: FINAL RECONCILIATION**

The NILAS Monitoring Team at NIEA advised on 29th November as follows:-

- Ballymoney Borough Council submitted quarterly returns (as required by statute) for the scheme year 2011-2012.

- From the returns submitted NIEA have calculated the amount of Biodegradable Municipal Waste (BMW) sent to landfill by each district council for the scheme year 2011-2012.
- **The total amount of BMW sent to landfill by Ballymoney Borough Council, for the scheme year 2011-2012, was 5,659 tonnes. Ballymoney Borough Council did not exceed its allowances available for the scheme year through 70.80% utilization of available allowances.**

IT IS RECOMMENDED that Council note its compliance with statutory duty.

IT IS FURTHER RECOMMENDED that Council note that its target for the total amount of BMW sent to landfill for 2012-2013 is 5,525t and for 2013-2014 is 5,311t. Should Council exceed its landfill allowance, Regulations allow the DoE to fine Council £150 per tonne for each tonne by which Council exceeds its target.

The Director of Borough Services responded to members' questions. He advised that given the step change in the allowance available in 2012-13 Council would have to decide in January / February 2013 what it would do in order to comply with its NILAS target [a statutory obligation].

- * Alderman Cousley left the meeting at 10.15am.
- * Councillor Finlay joined the meeting at 10.16am.

Discussion followed on the financial cost of diverting waste compared to paying fines for exceeding the NILAS targets. The Director referred to item 387.12 when explaining the various elements which have to be considered as part of any decision on diverting waste from landfill by re-processing.

- * Alderman Cousley rejoined the meeting at 10.22am.

A brief update was given by the Director on the recent Special Meeting of the NWRWMG Joint Committee and its consideration the sub-regional Infrastructural Project which will come before Council for decision, in order to remind members that the purpose of this procurement was to assist Councils to comply with their respective NILAS obligations. He asked members to make a note that a workshop for all councilors regarding the NWRWMG Infrastructural Project was planned for 11th January 2013.

It was proposed by Alderman Campbell, seconded by Alderman Kennedy and **AGREED:**

to recommend that (1) Council note its compliance with statutory duty and (2) to further recommend that Council note that its target for the total amount of BMW sent to landfill for 2012-2013 is 5,525t and for 2013-2014 is 5,311t. Should Council exceed its landfill allowance, Regulations allow the DoE to fine Council £150 per tonne for each tonne by which Council exceeds its target.

HEALTH & SAFETY

387.4 PETROLEUM (REGULATION) ACTS (NORTHERN IRELAND) 1929 AND 1937 PETROLEUM SPIRIT LICENCE (RENEWAL)

Application has been received for the renewal of petroleum spirit licence as follows: -

Premises

Carnany Service Station,
81 Kilraughts Road,
BALLYMONEY, BT53 7HL.

Applicant

Mr. R. A. Lamont

The renewal of the licence as detailed above is **RECOMMENDED**.

It was proposed by Alderman Kennedy, seconded by Alderman Campbell and **AGREED:**

to recommend the renewal of the licence as detailed above.

ENVIRONMENTAL HEALTH GENERAL

387.5 CERTIFICATES OF FITNESS THE PRIVATE TENANCIES (NORTHERN IRELAND) ORDER 2006 ARTICLE 36 (4)

Landlord

Mr. Chen

Dwelling- House

71 Union Street
BALLYMONEY
BT53 6HT

Mr. McKinney

4 Meetinghouse Street
BALLYMONEY
BT53 6JN

Mr. McKinney

6 Meetinghouse Street
BALLYMONEY
BT53 6JN

Mr. Allen

34 Kirk Road
BALLYMONEY
BT53 6PP

Fitness inspections of the above dwellings have been conducted and the dwelling houses meet the fitness standard for human habitation as set out in Article 46 of the Housing (NI) Order 1981.

IT IS RECOMMENDED that the Borough Council grant Article 36 (4) Certificate of Fitness in respect of the above dwelling houses.

It was proposed by Alderman Kennedy, seconded by Councillor Halliday and
AGREED:

***to recommend that the Borough Council grant Article 36 (4)
Certificate of Fitness in respect of the above dwelling houses.***

LICENSING

387.6 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1985 - LICENCE APPLICATIONS (FULL) (RENEWAL)

Premises

Se Og's Bar,
15 Main Street,
Rasharkin,
BALLYMENA, BT44 8PT.

Applicant

Ms. Donna Martin

St. Patrick's Parish Centre &
Youth Hall,
4a Queen Street,
BALLYMONEY, BT53 6JA.

Mr. George Field

Manor Hotel,
69 Main Street,
BALLYMONEY, BT53 6AN.

Mr. Danny Coulter

Ballymoney Royal British Legion
Social Club,
11 Townhead Street,
BALLYMONEY, BT53 6BE.

Ms. Amanda Louise Brennan

Ballymoney United Football,
Recreation and Social Club,
35 Castle Street,
BALLYMONEY, BT53 6JT.

Mr. Gerry McAleese

IT IS RECOMMENDED that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the cases of Se Og's Bar, St. Patrick's Parish Centre and Ballymoney United Football, Recreation & Social Club, subject to the provision of satisfactory electrical test certificates. In addition to the Borough Council's "Conditions of Licence" adopted on 7th October 1985 the additional conditions detailed on the premise files also apply.

It was proposed by Alderman Kennedy, seconded by Alderman Campbell and
AGREED:

to recommend that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the cases of Se Og's Bar, St. Patrick's Parish Centre and Ballymoney United Football, Recreation & Social Club, subject to the provision of satisfactory electrical test certificates. In addition to the Borough Council's "Conditions of Licence" adopted on 7th October 1985 the additional conditions detailed on the premise files also apply.

387.7 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1985 - LICENCE APPLICATIONS (FOURTEEN UNSPECIFIED DAYS) (RENEWAL)

Premises

Dunloy & Hannah McCracken
Memorial Hall,
12 Station Road,
Dunloy,
BALLYMENA, BT44 9AB.

Applicant

Mrs. Anne Allen

St. James's Presbyterian Church,
Main and Minor Hall and Annexe,
St. James's Road,
BALLYMONEY, BT53 6BJ.

Mr. Sean Carey

Cloughmills Memorial Orange Hall,
6 Main Street,
Cloughmills,
BALLYMENA, BT44 9LG.

Mr. William J. Kirkpatrick

IT IS RECOMMENDED that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the case of Cloughmills Memorial Orange Hall subject to the provision of a satisfactory electrical test certificate. In addition to the Borough Council's "Conditions of Licence" adopted on 7th October 1985 the additional conditions detailed on the premise files also apply.

It was proposed by Councillor Finlay, seconded by Alderman Cousley and **AGREED:**

to recommend that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the case of Cloughmills Memorial Orange Hall subject to the provision of a satisfactory electrical test certificate. In addition to the Borough Council's "Conditions of Licence" adopted on 7th October 1985 the additional conditions detailed on the premise files also apply.

387.8 THE BUSINESS OF TATTOOING, EAR PIERCING AND ELECTROLYSIS – REGISTRATION OF PERSONS AND PREMISES – PART V PROVISIONS

Applicant

Jamie Holmes

Premises

12b Church Street,
BALLYMONEY,
BT53 6DL.

IT IS RECOMMENDED that the above person and premises be registered.

It was proposed by Councillor Finlay, seconded by Alderman Campbell and **AGREED:**

to recommend that the above person and premises be registered.

PHARMACY AND POISONS

387.9 Applications for renewal of registration in respect of the sale of poisons included in Part II of the Poisons List together with the appropriate fee have been received as follows:-

<u>Name</u>	<u>Address</u>	<u>Deputies</u>
Mr. Danny McIntyre	Taggart & Co. Ltd. 38-44 Main Street BALLYMONEY BT53 6AL	J. Hill C. Murphy B. McCulloch M. Moore A. McClean G. McClelland
Mr. George Pollock	James Pollock & Son, 5 Ballybrakes Road, BALLYMONEY, BT53 6LG.	Mrs. D. Camp Mr. D. McLean Mrs. Ann Hughes Miss J. McClelland
Mr. James McFadden	Stranocum Post Office, 2 Main Street, Stranocum, BALLYMONEY, BT53 8PE.	Mr. T. McFadden Miss S. McFadden
Mr Ray Boyland	North Antrim Potatoes, 170 Ballinlea Road, Stranocum, BALLYMONEY, BT53 8PR.	Mr. J. Taggart Mrs. M. McDonald
Mr. Christopher Logan	Logans Hardware, 36 Drumadoon Road, Cloughmills, BALLYMENA, BT44 9LJ.	Mrs. V. Logan Mr. R. Logan
Mr James Shaw	Ashwood Garden Centre, 1 Greenhill Road, BALLYMONEY, BT53 6LZ.	Mr. Alan Neill Mr. Frank McAteer Mr. David Archibald Mr. Niall Johnston
Mr David Christie	David Christie & Son, 16 Greenhill Road, BALLYMONEY, BT53 6LZ.	Mr. A. Christie Mr. R. Wilson Mr. B. Lamont
Mr. Mark Alexander	John McElderry Ltd., 24-26 Market Street, BALLYMONEY, BT53 6EB.	Mr. W. Pearson Mr. R. McKay Mr. G. Boyd Mr. R. Matthews

<u>Name</u>	<u>Address</u>	<u>Deputies</u>
Mr. John Steele	Steele Farm Supplies, Unit 4, 14 Market Street, BALLYMONEY, BT53 6EB.	Mr. J. Steele (Snr) Mrs. A. L. Steele Mrs. H. A. M. Steele Mr. R. McKeeman Mr. D. Anderson
Mr. Ken Storey	Aquasun, Unit 6 Logan's Complex, 232 Frosses Road, Cloughmills, BALLYMENA, BT44 9PU.	Ms. Glenda Agnew

IT IS RECOMMENDED that the Borough Council give its approval to the above.

It was proposed by Alderman Cousley, seconded by Councillor Halliday and
AGREED:

to recommend that the Borough Council give its approval to the above.

BUILDING CONTROL

387.10 BUILDING CONTROL FEES FOR LOFT INSULATION

Members may recall that in December 2009 Council agreed to waive Building Control fees for top-up roof space insulation in existing dwellings (CMT 910.5 refers), at the request of the Head of the Energy Saving Trust (NI). The EST scheme, which offered the incentive of a one-off rebate on domestic rates, received very poor take up and has now been superseded by the Warm Homes Scheme. This scheme is funded by the Department for Social Development (DSD) to increase energy efficiency within homes. The scheme is only available to people who are in receipt of certain benefits.

Under the scheme people may be able to receive cavity wall, loft insulation, a hot water tank jacket and energy advice. The Warm Homes Plus scheme also includes the installation or upgrade of the central heating system in the home with an energy efficient system. An application to Building Control is required for these works and it is necessary for a surveyor to visit each and every dwelling to ensure that the works have been undertaken correctly and that ventilation to the roof space is not compromised.

The Building Control fee for a loft insulation application is £60 if the application is made in advance of the works being undertaken, and £72 where the application is made retrospectively. Councils were requested to "waive" these fees for an initial period of 6 months. As the statutory inspections must still take place, this is in fact not a "waiver" but absorption of costs, covered by all ratepayers within the council area.

The scheme expanded over 2010-11, and continues to increase, and a number of councils, including Ballymoney Borough Council, continued to absorb the application costs, whilst other councils reverted to charging fees (the split is

approximately 60/40 in favour of charging fees). The initial loss of fee income to Council was minimal, with only 2 applications submitted to Building Control in 2010/11. However, the number of applications for top-up roof space insulation has dramatically increased since then, to 75 for 2011/12, and to date 58 for 2012/13. This equates to a £4,500 loss of Building Control income in 2011/12, and £3,480 thus far in the current year. In March 2012 Council elected to continue with the waiver of fees for top-up roof space insulation (CMT 958.7 refers). No provision has been made in the rates estimates for this loss of income.

H&A Mechanical Services (H&A), who manage the scheme on behalf of DSD, have previously written to councils requesting that Building Control fees in respect of applications for loft insulation be waived. DSD have also advised that it was never intended that any of the budget for the scheme would be diverted towards Building Control fees. DSD and H&A state that unless the fees are waived then a portion of homes in the area will not be able to receive the energy upgrades. It would appear that DSD did not incorporate the statutory building control fees in the budget for the Warm Homes Scheme.

Members will be aware that Council may only charge a fee if they have specific legislative authority to do so. In this case the authority is within the *Building (Prescribed Fees) Regulations (NI) 1997*. These regulations authorize the Council to charge the permitted fees but do not require Council to charge the fee. Section 115 of the *Local Government Act (NI) 1972* provides councils with the power to make payments for any purpose which in its opinion is in the interests of the council. In this case the council is not making any payments but rather, if it so resolves, would be taking a decision not to exercise a power to claim a payment. The accounts of Council are subject to audit by the Local Government Auditor who has in the past expressed concern with how some councils exercised their discretion in respect of Building Control fees. Any erratic use of powers would be subject to Judicial Review and scrutiny in the audit regarding the financial probity of the transaction. Under Section 115 of the *Local Government Act (NI) 1972* any deferment of fees/payment must be:

1. Time bound
2. Non discriminatory
3. Benefit the rate payers of the council, and
4. The duty of the service provider is met by the rate payer.

In essence Council needs to be seen to be acting for proper motives in an open and unbiased way after full and detailed consideration of the issues. It would be unlawful for Council to only waive fees for loft insulation to those applications under the Warm Homes Scheme. Any decision to waive fees would need to be applied to all applications within the Council, not just to those benefitting from the grant scheme.

There is no doubt that the Warm Homes Scheme is a very noteworthy initiative and that it will assist in addressing fuel poverty within the Ballymoney Borough Council area. However there is concern than should fees be waived for loft insulation then Council would be requested to waive fees for other worthwhile schemes that address energy efficiency or safety within the home. There is also concern that DSD has not provided any evidence that the fee income saved in council areas where the fee has been waived has been reinvested for fuel efficiency measures within that council area.

Previously, district councils have had a choice of two options: either to continue to absorb the fee, or to charge the fee. Several councils have now developed a third

option, whereby fees for top-up roof space are charged initially in line with the fee regulations, but with the income from those fees subsequently ring fenced to be used by that council for whatever way it sees fit, providing that it satisfies the fuel poverty or carbon reduction initiatives for domestic properties.

IT IS RECOMMENDED that Council adopt one of the following options when charging Building Control fees for the work of adding additional insulation to roof areas in dwellings:-

- Option 1 – revert to charging fees in line with the *Building (Prescribed Fees) Regulations (NI) 1997*
- Option 2 – continue to waive fees for a further period of 12 months
- Option 3 – charge the fees, with the income raised subsequently ring fenced for fuel poverty initiatives, as directed by the Director of Borough Services.

The Director of Borough Services advised that the minority of Councils now waive Building Control fees for top-up roof space insulation under the Warm Homes Scheme and that it would be preferred that Council also revert to the norm of charging the set fee to cover the cost of providing the service. Whilst certain members were supportive of this position, Councillor Finlay intimated that he felt if a fee was charged it would discourage people, the most needy, from getting loft insulation.

It was proposed by Alderman Kennedy, seconded by Alderman Campbell:

to recommend that that Council adopt Option 1 - revert to charging fees in line with the Building (Prescribed Fees) Regulations (NI) 1997 when charging Building Control fees for the work of adding additional insulation to roof areas in dwellings.

There were no other proposals. A recorded vote was requested by Councillor Finlay.

A vote was taken with four members voting in favour of the motion and two members voting against.

FOR (4)

Alderman Campbell
Alderman Connelly
Alderman Cousley
Alderman Kennedy

AGAINST (2)

Councillor Finlay
Councillor Halliday

The Chair declared the motion carried.

COMMUNITY SAFETY (PCSP)

387.11 STRIDE YOUTH PROJECT

I am pleased to report that on the 12th December at the Justice in the Community Awards, held at Stormont, The Stride Youth Project (Success through Recreation, Intervention, Diversionary, Education) received a Highly Commended Award. The project which was devised and co-ordinated by the then CSP Manager included the three other CSPs with the Causeway Coast and Glens cluster area together with the Youth Justice Agency, PSNI and the Northern Health and Social Care

Trust. It ran from November 2011 – March 2012 and was aimed at addressing increasing levels of anti-social behavior targeting in particular hard to reach young persistent offenders.

As a result of the success of the programme Stride II is currently being delivered again across the cluster area. The award recognized the excellent partnership work across the Council areas and the statutory agencies involved co-ordinated by the CSP Manager.

It was proposed by Alderman Campbell, seconded by Alderman Kennedy and **AGREED:**

to recommend that a letter of congratulations be forwarded to the PCSP Manager recognising this success.

MATTERS FOR INFORMATION

ENVIRONMENTAL SERVICES

387.12 MUNICIPAL WASTE RETURNS

<u>Waste Type</u>	<u>Nov 2011</u>	<u>Nov 2012</u>	<u>Apr 11 – Nov 11</u>	<u>Apr 12 Nov</u>
Mixed Residual Waste (waste direct to landfill)	782.98t	741.44t -5.30%	6,074.16t	5,724.20t -5.76%
Mixed Dry Recyclables (blue bin recycling)	134.32t	163.62t +21.81%	1,119.93t	1,242.55t +11.03%
Garden Waste (brown bin recycling)	n/a	n/a	1,199.96t	1,074.18t -10.48%
Waste Recovery (segregated HRC waste)	65.96t	52.12t -20.98%	543.22t	574.48t +5.75%
Cardboard	3.28t	2.90t -11.59%	45.17t	34.70t -23.18%
Timber	26.32t	14.88t -43.46%	233.82t	193.82t -17.11%

387.13 NWRWMG JOINT COMMITTEE MINUTES

The minutes of the North West Region Waste Management Group Joint Committee meetings held on -

5th September 2012

3rd October 2012

were circulated for the benefit of Members.

ENVIRONMENTAL PROTECTION

387.14 AIR POLLUTION IN NORTHERN IRELAND 2011

The Air Pollution in Northern Ireland 2011 report has recently been received from Air & Environmental Quality Unit of Environmental Policy Division at DoE NI. A copy has been placed in the Members Room at Riada House.

ENVIRONMENTAL HEALTH GENERAL

387.15 PRIVATE TENANCIES (NI) ORDER 2006

PRIVATE RENTED SECTOR – IMPACT OF THE PRIVATE TENANCIES (NI) ORDER 2006

The Department of Social Development (DSD) Private Rented branch have by letter dated 5th December provided the following analysis of the action taken by Councils under the above Order during the period 01 April 2011 to 31 March 2012.

- Annex A - Work undertaken in relation to fitness of properties.
- Annex B - Court action /enforcement action taken.
- Annex C - Good Practice Sharing.

This information has been collated from information supplied by Environmental Health Officers in each Council area on a quarterly basis, and were circulated to members.

The Department is currently reviewing the Guidance for Councils, which was issued in November 2010 to take into account the new legislation on tenancy deposit schemes and landlord registration.

Tenancy Deposit Schemes and Landlord Registration

Both sets of Regulations were approved by the Assembly on 24 September 2012. The Department will now make the Regulations and it is hoped to have Tenancy Deposits schemes available in early 2013 and to require landlords to register before the summer of 2013.

Councils are to be kept informed on the progress of both of these and discussion will take place in good time to ensure effective arrangements are in place for the implementation, publication and subsequent enforcement of these new provisions. The Department's website and NI Direct site also carry up to date details of these new provisions.

The Caravans Act (Northern Ireland) 2011

From September 2011 the Department introduced additional questions in the quarterly return under the Caravans Act on "Harassment and illegal eviction". Returns from Councils to date would suggest there are currently no areas of concern for the residential sector. This area will continue to be monitored by the Department.

Council has recently entered into an information sharing protocol with NIHE (HES 382.14 refers) in an attempt to identify such properties through housing benefit information.

LICENSING

387.16 LICENSING (NORTHERN IRELAND) ORDER 1996

<u>Applicant</u>	<u>Purpose</u>	<u>Date</u>
Ms. Sharon McKillop Blackwater Bar & Restaurant 250-252 Castlecatt Road Dervock BALLYMONEY BT53 8BP	Occasional Licence (Ballybrakes Community Indoor Bowling Club 27/12/12 – 29/12/12 and 1/1/13)	4/12/12

387.17 WIND TURBINE AT CROSSTAGHERTY

In response to Alderman Kennedy the Director advised that the matter would be progressed when resources would permit.

The Chair wished everyone a very happy Christmas and prosperous and peaceful New Year.

This being all the business the meeting closed at 10.56pm.