

**LIMAVADY BOROUGH COUNCIL
COMHAIRLE BHUIRG LÉIM AN MHADAIDH**

SPECIAL MEETING

MARCH 11TH, 2008

Minutes of a special meeting held in Council Offices, 7 Connell Street, Limavady at 7:50pm on the above date.

PRESENT:

In the Chair: Councillor E. Stevenson

Aldermen G. Mullan, and G. Robinson. Councillors A. Brolly, P. Butcher, B. Chivers, M. Coyle, L. Cubitt, M. Donaghy, B. Douglas, C. Ó hOisín and A. Robinson.

IN ATTENDANCE:

Admin Officer, Director of Development, Chief Executive and Mr. B. Thompson, Councils' Legal Advisor

APOLOGIES:

Alderman J. Rankin, Councillors M. Carten and J.F. McElhinney

SENIOR COUNSEL OPINION REGARDING VESTING OF LAND AT CATHERINE STREET, LIMAVADY

The Mayor welcomed Mr. Thompson to the meeting.

Councillor Cubitt voiced his discontent regarding the tabling of information as he nor did other members have the opportunity afforded to them to read it prior to the meeting. He continued that when he contacted the office that afternoon he had been told that additional information was not available.

Mr. Thompson clarified that the information provided, namely Guidance of Department of Enterprise Trade and Investment (DETI), issued under Article 8(6), was merely an aid which he would be referring to during the discussion to follow.

It was proposed by Councillor Coyle, seconded by Alderman Mullan that the meeting should be held **IN COMMITTEE** as information to be discussed would be of a sensitive nature.

Councillors Cubitt and Douglas both voiced their opposition that the meeting had gone **IN COMMITTEE** and after further discussion the Chair requested a recorded vote. The proposal was accepted, seven, with Councillors Coyle, Mullan, Chivers, Butcher, Donaghy, Brolly and Ó hOisín voting for and five; Councillors Douglas, Cubitt, Robinson and Alderman Robinson and the Chair against, therefore, members of the press left the Chamber.

IN COMMITTEE: Mr. Thompson gave background history about the area concerned. He referred to Article 8(5) provides that a district council shall have regard to any guidance for the time being issued by the Department of Enterprise, Trade and Investment, whilst, Article 8(6) provides that DETI may, after consultation with district councils and other interested bodies or persons issue guidance as to the exercise by district councils of their new economic development powers.

He went on to explain that vesting of the land by the Department could only be undertaken if it was deemed a sound economic need and to enhance the local economy working in conjunction with Invest NI to attract inward investment.

It had been agreed at the Development meeting held on December 11th, 2007 that Council seek legal opinion and Mr. Thompson advised members that Senior Counsel gave the opinion that it was likely that Council proceed on the basis that a Judicial Review application would be sought regardless of outcome. He went on to say that Council should consider appointing an independent retail expert or chartered surveyor to solicit if the garden in question stymies the proposed retail development. If, as stated in Article 8(5), there is economic evidence to back up the development, especially in light of the recent job losses within the Borough, Council would need to satisfy themselves that the purpose of vesting the land was to rejuvenate the area.

Mr. Thompson made reference to the fact that the developer had received two planning approvals to date which would include housing development, however, it was felt that the garden owned by Ms. Hunt would be an integral part of the development which would attract a major anchor store to the site and without the garden would have a negative effect.

Councillor Brolly reiterated that at present many houses within the area were up for sale and it was in the interest of Council to proceed with supporting the developer to stimulate economy within the Borough.

Senior Counsel alluded to the fact that no attempt had been made by the developer to approach the owner and her son to purchase the garden in the past two years and it would be necessary to ascertain current market price value for the land. It also recommended that if Council pursued the vesting of land at Catherine Street all steps should be taken to ensure it would be done lawfully. This would include appointing an independent adviser to determine if the retail development could not proceed without the garden in question and that the development was essential for the wellbeing of the Borough in light of the recent loss of jobs and that all reasonable steps had been taken to acquire the garden. Counsel also urged caution to ensure that Council is not seen to prefer the interests of the developer to those of the ratepayer, so as to enable the developer to maximise his profits at the expense of another party unless such assistance is lawful and can be demonstrated to be so. Finally in the event of a judicial review it was recommended that DSD vest the garden as they would be better placed to defend any judicial review challenge.

Councillor Douglas voiced his dissent that Council had sold the land previously and the vesting of the site was not essential to the development of the site. He felt that no further money should be spent by Council on this site. He felt that the developer could commence the development and approach the landowner at a later date.

Both Councillor Douglas and Alderman Robinson felt it was morally wrong vesting Ms. Hunt's garden and if vesting went ahead it would be at the cost of the ratepayers. Councillor Cubitt advised that he had taken advice and it had been deemed that if Council proceeded it would invariably result in a judicial review which would be unfair for a lady in her 80's to be put through the ordeal.

Councillor Brolly felt that it was important for Council to take every step to encourage rejuvenation into the town by supporting this retail development. This was in accordance with the Mentor Report which had been adopted by Council in 1998 to avert the decline of the Borough. Councillor Butcher advised that Council had a duty of care with the loss of 1000's of jobs to ensure that economic development be paramount for the area. He agreed with Councillor Brolly in appointing an independent expert or chartered surveyor to solicit their point of view.

Councillor Cubitt proposed that Council abandon the plans as it would only lead to a judicial review. This proposal was not seconded.

Alderman Robinson suggested that the developer approach Ms. Hunt regarding the sale of her garden or enquire as to why she wouldn't want to sell. Mr. Thompson advised that an offer had been put forward to Ms. Hunt and her son which had been rejected in July 2007 according to their solicitors.

Councillor Brolly proposed, seconded by Councillor Donaghy that Council proceed to the next step by employing independent retail adviser or chartered surveyor to carry out an assessment in the interest of the economy.

Councillor Douglas seconded Councillor Cubitt's proposal, however, that was deemed lost as Councillor Brolly had made her proposal which had been seconded by Councillor Donaghy. A recorded vote was requested with the proposal to seek independent advisor which was declared carried, seven, by Councillors Coyle, Mullan, Chivers, Donaghy, Butcher, Brolly and Ó hOisín voting for and five; Councillor Stevenson, Douglas, Cubitt, Robinson and Alderman Robinson voting against. **OUT OF COMMITTEE** proposed by Councillor Brolly, seconded by Councillor Butcher.

THIS CONCLUDED THE BUSINESS
(The meeting ended at 9:10 pm)

Signed: _____
Chair of Meeting