

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

PLANNING & SERVICES COMMITTEE

20 NOVEMBER 2012

Minutes of meeting held in the Council Offices, 7 Connell Street, Limavady at 7.00 pm on the above date.

PRESENT:

Aldermen M Coyle and J Rankin. Councillors A Brolly, B Chivers, B Douglas, T McCaul, J McCorkell, S McGlinchey, G Mullan, D Nicholl (Chair), A Robinson and E Stevenson.

IN ATTENDANCE:

Chief Executive, Committee Clerk, Head of Finance, Administrative Officer and Ms Andree McNee, Planning Service.

APOLOGIES: - Alderman G Robinson, Councillors O Beattie and C McLaughlin.

MINUTES:

The minutes of meeting dated 16 October 2012 were approved and signed on the proposal of Alderman Michael Coyle, seconded by Councillor Tony McCaul.

MATTERS ARISING:

Page 1 – Letter to DARD Regarding Farm Incidents Involving Slurry Pits: The Chief Executive advised members that Minister O’Neill (DARD) had referred Council’s letter to Arlene Foster, MLA Minister of Enterprise, Trade and Investment as her Department had the legal responsibility for health and safety on farms. In her response to Council’s concerns she advised that the legislative framework was already sufficient to ensure safety during the operation of slurry tanks and referred council to the relevant legislation. She added that HSENI and its partners on the Farm Safety Partnership were increasing their efforts to promote awareness of the guidance and stressed the importance of the farming community taking on board this advice.

Page 2 – Leak at 300 Drumsurn Road Limavady: The Chief Executive informed members that he had received a response from Northern Ireland Water who advised that their Leakage Section and Networks Water Department had investigated the lead at 300 Drumsurn Road Limavady and they confirmed that it was not mains water so they could not be of any further assistance to us.

ACCOUNTS AUTHORISED FOR ISSUE CERTIFICATE:

The Head of Finance explained that, in accordance with International Accounting Standard (IAS 10), the Statement of Accounts for the year ended 31 March 2012, which was authorised for issued on 29 October 2012, contained a number of

material amendments from the accounts approved on 26 June 2012 at the Planning & Services Committee. He said that any material amendments must be explained and reported to the same Committee in accordance with Regulation 12 of the Local Government (Accounts and Audit) Regulations (NI) 2006.

The Head of Finance outlined that the material adjustments were:

First Material Adjustment: - The Council's accounting policies required a full revaluation of land and building assets at least every five years. In the intervening period the Council used indices as an approximation of fair value to ensure asset values remained materially correct. These indices were provided by Land and Property Services (LPS). LPS had recently provided additional clarification on the correct application of their indices in preparing accounts.

This new application resulted in some material changes to the 2010/11 figures previously published. The net worth of assets was reduced by £1,596,440 and the Council's surplus on the provision of services had been increased by £220,585, mainly as a result of a reduction in the total depreciation and impairment charges. Due to reversal of depreciation in note 3a there had been no overall change to the 2010/11 result for the year.

The new application had also resulted in some material changes to the 2011/12 Accounts approved on 26 June 2012. The new worth of assets had been reduced by £2,245,970 and the Council's deficit on the provision of services had been reduced by £57,999. However there was no overall change to the result for the year.

The Head of Finance went on to explain that in 2010/11, Council treated the LPS indices in a way that was approved by the Local Government Auditor, after checking with LPS. In 2011/12, Council treated the LPS indices the same way and KPMG had disagreed. However, the Local Government Auditor checked again with LPS re the accounting treatment and LPS gave a different answer to 2010/11. Because of that, all Councils had to redo their 2010/11 and 2011/12 accounts. As stated above, there had been no effect on the District Fund Balance.

The net worth of assets reduction of £1.6m in 2010/11 and £2.2m in 2011/12 were not cumulative i.e. they were not added together. Therefore, as at 31 March 2012, Council's net worth of assets had been reduced by £2.2m.

Second Material Adjustment: As a result of increasing the number of years' provision from ten to thirty the landfill aftercare provision increased by £682,575 and the Council's deficit on the provision of services increased by £682,575.

There had been no effect on the District Fund Balance.

SCHEDULE OF PLANNING APPLICATIONS: (New applications – see appendix)

Ms McNee answered queries on applications listed on the new applications schedule and the recommendations were accepted subject to the following:

D2 – B/2012/0162/F – proposed 250kw wind turbine to serve a farm 45m to hub, 335m west of 120 Curragh Road, Dungiven (Mr James Semple). Agreed.

B3 – B/2012/0191/O – site for dwelling and detached garage immediately north of 38 Seacoast Road, Limavady (Mr Howe). Agreed to hold for 10 days.

SCHEDULE OF PLANNING APPLICATIONS: (New applications – see appendix)

Ms McNee answered queries on applications listed on the new application schedule and the recommendations were accepted subject to the following:

B/2012/0267/O – site for rural dwelling on farm holding in accordance with policy CTY10 of PPS21 on lands between 98 and 104 Windyhill Road, Limavady (Mr Marius McCauley). Office meeting agreed.

Ms McNee left the meeting at 7.15 pm

APPEALS DECISIONS NOTIFIED:

B/2009/0067/F – Retention of a yard used for the hire and sales of vehicles and additional perimeter landscaping adjoining 64 Ballykelly Road, Limavady (Mr O Harper). Member expressed their disappointment that the appeal had been dismissed and were concerned that the business may now face closure.

ROADS: - None

WATER & SEWERAGE: - None

HOUSING: - None.

NILGA PLANNING CONFERENCE:

Approval was given for members to attend a free Planning Conference organised by NILGA in the Glenavon Hotel, Cookstown on 12 December 2013. Aldermen J Rankin and M Coyle and Councillors D Nicholl, B Douglas, E Stevenson, T McCaul and A Brolly expressed an interest in attending. Further details of the conference will be forwarded to members by the Chief Executive's staff.

ANY OTHER BUSINESS:

European Territorial Co-Operation 2014-2020 Consultation: A copy of Limavady Borough Council's response to the European Territorial Co-Operation 2014-2020 Consultation document was tabled for members' information and comment. If members wished to make any comments they should contact the Director of Development Services.

IN COMMITTEE on the proposal of Councillor A Brolly, seconded by Councillor T McCaul.

Dungiven Right of Way: The Chief Executive explained the background to a local business man's claim that there was a right of way in existence for the purpose of his business via the car park of Dungiven Castle. Legal advice was sought and the legal opinion was that in the absence of any formal records, minutes or maps detailing this right of way Council would find it very difficult to refute the claim as there was evidence in existence i.e. a gate and a hatched area on the ground in the car park. Council had hoped to enter into discussion with the business man's solicitor to negotiate restrictions as to time and days when it might be utilised so as not to affect the existing business in Dungiven Castle. The Chief Executive went on to inform members that before discussion could take place a "Equity Civil Bill" was served on Limavady Borough Council by Kelly and Corr Solicitors on behalf of their client. He explained that the "Equity Civil Bill" was between their client (Plaintiff) and the sub-leasee of Dungiven Castle (First Defendant), Glenshane Community Development Ltd (Second Defendant) and Limavady Borough Council (Third Defendant). He continued by listing the plaintiff's claims for relief as detailed on the "Equity Civil Bill". Council's solicitor has advised that in order to protect Council's position in relation to these proceedings it will be necessary to:

- a) Enter a "Notice of Intention to Defend".
- b) Have authority to brief Counsel on Limavady Borough Council's behalf.
- c) Make it clear to both of the other defendants that Council will seek to recover from them all costs and expenses incurred in defending these proceedings.

In the discussion which followed members raised a number of points which included:

- The need to take steps to ensure that access is maintained to Dungiven Castle Car Park and to the Environmental Park.
- No record existed of any formal agreement having been brought to Council.
- Position of Council needs to be defended.
- The suggestion that some form of agreement may have existed with the previous owner prior to Council's acquisition of Dungiven Castle.
- Council would incur costs in obtaining legal advice.
- Council would pursue all costs if it were successful.

Members agreed on the proposal of Alderman Michael Coyle, seconded by Councillor A Brolly that Council should proceed with the recommendations from Council's solicitor to enter a "Notice of Intention to Defend", brief Counsel on Limavady Borough Council and to seek to recover costs and expenses incurred in defending these proceedings.

OUT OF COMMITTEE: on the proposal of Councillor B Douglas, seconded by Councillor J McCorkell.

DATE OF NEXT MEETING: - 18 December 2012.

THE BUSINESS CONCLUDED AT 7.45 PM.

Chair: _____