

LIMAVADY BOROUGH COUNCIL
COMHAIRLE BHUIRG LÉIM AN MHADAIDH

PLANNING & DEVELOPMENT SERVICES COMMITTEE

30 AUGUST 2005

Minutes of special meeting held in the Council Offices, 7 Connell Street, Limavady at 7.30 pm on the above date.

PRESENT:

Aldermen G Mullan and G Robinson. Councillors A Brolly, P Butcher, L Cubitt, M Carten (chair), B Chivers, M Coyle, B Douglas, M Donaghy, C Ó hOisín, J F McElhinney, A Robinson and E Stevenson.

IN ATTENDANCE:

Committee Clerk, Director of Environmental Services, Mr Michael Graham, Farningham McCreadie Partnership, Mr Andy Meenagh, Area Plan Team and Mr Adrian Brown, Planning Service.

APOLOGIES:

Alderman Rankin and Acting Town Clerk & Chief Executive.

**REFUSAL AND DEFERRAL OF PLANNING APPLICATIONS –
UNDERMINING OF DRAFT NORTHERN AREA PLAN 2016:**

It was agreed on the proposal of Councillor Robinson, seconded by Councillor Cubitt that Council would discuss the implications of refusal and deferral of planning applications due to undermining of Draft Northern Area Plan 2016 **IN COMMITTEE** with Michael Graham.

Mr Graham gave an overview of events from the issue of Joint Ministerial Statement (JMS) in January 2005 to the publication of Draft Northern Area Plan 2016 (NAP). He said that Planning Applications received after the JMS but before Draft NAP stood a better chance of being approved than those submitted after May 2005 when Draft NAP was published.

Mr Graham outlined that paragraph 19 of the JMS clarified weight to be accorded in making planning decisions, to the provisions of an emerging plan drawn up within the context of new directions set out in the RDS and other prevailing regional planning policies. He said that when a development plan was under preparation and being drawn up within the context of the framework, there were circumstances where plans would be refused on the ground of prematurity and examples of these include:

- (a) *if approval would prejudice the ability of the emerging new or replacement development plan to achieve general conformity with the RDS; or*
- (b) *would prejudice the outcome of the plan process by predetermining decisions that ought to be taken following full consideration of the relevant issues in the context of a public inquiry. For example decisions on nature, scale, location or phasing of new development and decisions that could result in an adverse impact on environmental asset or undermine the rationale behind Green Belt or Countryside Policy within the emerging plan.*

Mr Graham summarised his concerns on a number of issues relating to both the JMS and the Draft NAP and it was agreed that members would raise the issues discussed with Mr Meenagh when he attended the meeting later in the evening.

OUT OF COMMITTEE.

The Chair welcomed Mr Andy Meenagh, Draft Northern Area Plan Team, Mr Adrian Brown, Planning Service, press officials and members of the public to the meeting.

Mr Meenagh explained that responses to the Draft NAP, published on 11 May 2005 were in the process of being classified and hoped these would be complete by October 2005. He said that although 90% of the plan had been objected to, it was presented in the public interest of everyone over the next 15 years. He added that the NAP team hoped to complete work on the plan by 2006 or early 2007 and by 2008 the PAC Report would be finalised for final adoption of the NAP by Council.

Mr Meenagh referred to the 160 Planning Applications in Limavady Borough Council area which had been refused due to undermining of Draft NAP and said incorrect advice had been given by agents to their clients as 75% of the applications would have been refused on Greenbelt or Countryside Policy reasons. He said that the Planning Appeals Commission gave weight to the JMS by dismissing appeal of Mr Shane Gallagher for full planning permission on land at Tartnakilly Road by agreeing that planning permission be refused.

Councillor Butcher pointed out that the JMS was flawed as it was based on interpretation and not by statute. Mr Meenagh said that whilst the JMS had not been challenged by law, Planning Service were not in position to set it aside.

Councillor Butcher pointed out that Council had decided not to accept the refusal decisions in June & August 2005 Planning Schedules and queried why 6 of the rejected plans had come back as approvals. Mr Meenagh responded that there may have been outline conditions and subsequently the applicants had been given the chance to amend their schemes. Councillor Butcher said if Council had accepted the initial refusal decision, the 6 applications would have been binned.

Councillor Cubitt stated if 90% of the Draft NAP had been objected to, something was fundamentally wrong with it. Mr Meenagh refuted this and said a balance was needed in balancing housing development with obligations to protect environmental assets as set out and accepted by MLA's in the Assembly. He said it was clear that there was a leakage of the NAP proposals to the private sector, as there had been a race to get lands passed for housing.

Alderman Mullan agreed there was a need for some form of control on development but to implement a blanket ban would be grotesque. He referred to Council's submission in October 2004 to the plan and said no weight had been given to the suggestion that local people had the right to live and work in their local area. Mr Meenagh indicated that PPS14 set out the framework on Rural Planning and the issue of local farmers being given preference for their children to build homes in their local area would cause problems and was prejudice to the overall plan.

Councillor Coyle indicated that whilst it would have been preferable to step from one Area Plan to another, the current draft plan had caused problems for agents, Architects as well as Planning Service. He said the JMS did not clarify or define weight given to Draft NAP and this was needed if Council, Planning Service and Architects were to work in co-operation. Mr Meenagh highlighted that although the JMS had not been challenged; it was material and had to be regarded in planning decisions. He said the goal posts changed when the Draft NAP was published.

Councillor Douglas was of the opinion that Green Belt Policy discriminated against farmers who owned land in these areas from building homes for their children. He queried if there was a blanket approach or if planning applications would be approved on health grounds or for agricultural need. Mr Meenagh indicated that there was no blanket approach and that very few health cases were genuine.

In response to Councillor Butcher, Mr Meenagh said although there was an increase in demand for houses, Planning Service no longer predicted and provided what sites were needed and were not obliged to meet this demand. He said it was growth controlled and ultimately if the market was flooded with sites this would bring prices down.

Councillor Brolly referred to the John Lewis development in Lisburn which had been refused planning permission and later overturned at a higher level for job creation. She queried who made this decision and if this would override other considerations. Mr Meenagh said normally Ministers ignored professional advice at their peril, however on this instance the Minister had a prerogative to make the decision as long as he could defend it.

Councillor Cubitt stated that the people of Limavady wanted to build houses that would be lived in throughout the year, which was unlike the many holiday homes approved along the north coast. Mr Meenagh responded that the issue of holiday homes had yet to be addressed.

Mr Graham pointed out that although the JMS had not been challenged, it was being used as policy and there was the issue of fairness to applications submitted in 2003/04 being decided on prevailing policy at that time. Mr Meenagh outlined that Planning Service was obligated to use the most up to date advice irrespective on when plans were submitted.

In response to Councillor Coyle, Mr Meenagh said Planning Service would bring back the 160 refused applications in October 2005 and if additional information was provided on rural strategy, farming need or personal circumstances, this could be considered for the 40 applications refused for Draft NAP reasons only.

In conclusion it was agreed that elected members would contact the applicants regarding submitting additional information as soon as possible.

**THIS CONCLUDED THE BUSINESS
(The meeting ended at 9.55 pm)**