



Comhairle Contae Chorcaí

Cork County Council

Minutes of Proceedings at Meeting of Cork County Council held in the Council Chamber, County Hall, Cork and by Microsoft Teams on 8th November 2021 at 11am.

I LATHAIR

Comhairleoir Cathal Rasmussen, Leas-Mhéara Chontae

Comhairleoiri: Ó Muineacháin, B, Ó Dubhghaill, Ó Sé, Sean Pól, Ó Murchú, Gearóid, Críod, Ní Mhuineacháin G, Ó Luanaigh, Ó Cochláin, M, Uí Loinaigh, Ó Luasa, Ó hAodha, Padraig, Ó Murchú, Gearóid, Ó Cinnéide, Ó Madaoin, Ó Sé, Tony, Léanacháin - Uí Foghlú, Ó Héigheartaigh, Ní hEachthigheirn, Uí Thuama, MacCarthaigh S, Mac Uaid, Ní Cheallaigh, Ó Cearbhaill, Ó Muirthile, Uí Chaochlaoidh, Ó Haodha Pól, Ó Colmáin, Ó Murchú, Caoimhín, Ó Suilleabháin, Sean, Uí Shuilleabháin Máire, Ó Donnabháin, Ó Coileáin D, Ó Murchú PG, Ó Conaill, Mac Craith, Uí Daltún, Ó Muircheartaigh, Uí Bhuachalla, Daltún Ó Suilleabháin, Barra, Sheppard, Rasmussen, Ó Conchubair S, Ó Conchubair A, Ó Flionn, Uí Bhriain, Ó Laoghaire, Dawson, De Róiste, MacCarthaigh N.

PRESENT

Councillor Cathal Rasmussen, Deputy Mayor, presided.

Councillor: Moynihan B, Doyle, O'Shea JP, Murphy Gerard, Creed, Moynihan G, Looney, Coughlan M, Lynch, Lucey, Hayes Pat, Murphy Gearóid, Kennedy, Madden, O'Shea, Tony, Linehan – Foley, Hegarty, M, Ahern, Twomey, McCarthy S, Quaide, Kelly, Carroll, Hurley, Coakley, Hayes Paul, Coleman, Murphy Kevin, O'Sullivan J, O'Sullivan M, O' Donovan, Collins D, Murphy P.G, O'Connell, McGrath, D'Alton, Murtagh, Buckley, Dalton – O'Sullivan, Barry, Sheppard, Rasmussen, O'Connor S, O'Connor A, O'Flynn, O'Brien, O'Leary, Dawson, Roche, McCarthy N.

Chief Executive; Mr. Michael Lynch, Director of Planning

The Deputy Mayor outlined the Public Health Restrictions at the beginning of the meeting and reminded Members of the COVID-19 SOP management requirements of the meeting.

SUSPENSION OF STANDING ORDERS

Proposed by Cllr. Michael Hegarty

Seconded by Cllr. Mary Linehan Foley

To discuss the High Court ruling in respect of the judicial review of the Section 31 Ministerial Direction on the matter of Variation Number 2 of the County Development Plan relating to retail outlet centre provision.

[a] CONFIRMATION OF MINUTES

Proposed by Cllr. Michael Hegarty

Seconded by Cllr. Mary Linehan Foley

RESOLVED:

That the minutes of the Meeting held on 26th October, 2021 be confirmed and signed by the Mayor.

[b] VOTES OF SYMPATHY

2/11-1

TO: Mr. John Tobin on the death of his mother Anne Tobin

[c] STATUTORY BUSINESS

3/11-1

**PART 8 MANAGER'S REPORT SECTIONS 179(3) OF THE PLANNING & DEVELOPMENT ACT 2000
(AS AMENDED)**

RESOLUTION UNDER SECTION 179 OF THE PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

Part 8 - Chief Executive's Report on Lands at Fana na Gcrann, Dungourney, Co. Cork

Proposed by Councillor Michael Hegarty

Seconded by Councillor Susan McCarthy

RESOLVED:

Noting that in accordance with Section 179 of the Planning & Development Act 2000, (as amended), notice of the proposed development was published, no submissions were received in respect of the proposal, approval pursuant to Section 179 of the Act is given for the following:

Lands at Fana na Gcrann, Dungourney, Co. Cork

3(a)11-1

LOCAL GOVERNMENT ACT 2001-SECTION 18(4)(C):

Members resolved to approve the extension of the continuous period of absence from meetings of Cork County Council of Councillor Noel Collins for a period of six months to May 2022.

Proposed by Councillor Michael Hegarty

Seconded by Councillor Mary Linehan Foley

[e] **REPORTS AND RECOMMENDATIONS OF COMMITTEES**
TÚAIRISCÍ AGUS MOLTAÍ Ó CHOISTÍ

4/11-1

CORPORATE POLICY GROUP

Approval of attendance by Members at conferences on the Conference list for November 2021

Proposed by Councillor Kevin Murphy

Seconded by Councillor Mary Linehan Foley

SUSPENSION OF STANDING ORDERS

5/11-1

SUSPENSION OF THE HIGH COURT RULING FOR CORK TOURIST OUTLET VILLAGE IN CARRIGTWOHILL

Councillor Michael Hegarty proposed, seconded by Councillor Mary Linehan Foley

During the discussion, the Members made the following points:

- Members said the High Court Ruling was the correct outcome
- They thanked the Chief Executive and Director of Planning
- A debate is needed at Oireachtas level on the matter
- Members said that Cork County Council had regard to planning guidelines in varying the Development Plan
- They said the planning process is robust and interference by the Planning Regulator was unjustified
- Members are formulating a County Development Plan that is correct for the county & region
- The ruling made will have widespread consequences across the Local Authority system
- The decision gives power back to Members to decide what is best for county
- They said the decision was in the best interests of the people of the county
- The ruling has strengthened the power and autonomy of Local Government
- Members stated that regional development is very much a part of council policy
- The ruling has strengthened the power and autonomy of Local Government
- Indicates to Oireachtas what needs to be done legally and said there is a difference between guidelines versus regulations
- It was a serious step as Members decisions were called into question and the ruling has vindicated the actions of the council
- The judge said it was an attempt by OPR to expand the role with no legislature support
- Members spoke about the environmental consequences of the proposed development and stated that 90% of people traveling to the Retail Centre would be travelling by car and that this was not sustainable

- Members said that Kildare Village has been doubled in size
- Said it was more sustainable to have a retail outlet centre in Cork than have people travelling to Kildare from the south of the country
- Members queried the issue of costs and asked what are the implications for joint retail strategy
- Members asked what the implications for the draft Co. Development Plan
- They queried if the OPR has an input on the draft plan and queried if there is an impact on zoning of land
- Said the judgment noted that the Council had passed with flying colours and this says a lot as to how the Council have conducted their business

The Chief Executive thanked Members for their comments. Mr. Lucey said the judgment relates only to Variation no. 2 of the County Development Plan. He indicated a number of issues that are outstanding including costs and said the legal order needs to be made by the court. Mr. Lucey said work continues with the City Council on the Joint Retail Strategy regardless of the outcome of the judicial review. He said a proper approach to zoning and the supporting objectives must be taken.

Mr. Michael Lynch thanked the Chamber and Chief Executive for their guidance. He said the cohesion between political and executive stood the Council in good stead.

Mr. Lucey noted in particular sections 83 to 86 from the High Court Judicial Review judgement made by Judge Humphreys as follows:

“While one can understand the position of the Minister and the OPR, the vast bulk of their argument was dependent on an implicit premise that there was an entitlement to form a view of breach of the requirement for an overall strategy by taking into account that the council had not followed elements contained in non-binding guidelines that the Minister and OPR thought were particularly relevant, and had not explained how the council’s action did not follow such elements of the non-binding guidelines to the satisfaction of the Minister and the OPR. I just don’t think that such an analysis sits correctly within the precise and technical terms of the legislative scheme.

Indeed not only that, but the precise way in which the position of the Minister and OPR is now phrased does not sit easily with how the complaint against the council was launched originally as set out in the draft direction formulated by the OPR. The council has a valid point that the complaint has mutated at every hand’s turn. No two iterations of the case against it seem to be worded in precisely the same way, and that case continued to evolve right into the hearing.

Ultimately, the practical functioning of local government must draw a clear and workable distinction between matters that local authorities are required to have regard to and matters that are mandatory, and indeed the same applies by analogy in any other area of public law. That echoes the point very clearly made by Collins J. in Spencer Place.

In the case of the dispute between the council and central government here, that line has been blurred by the OPR and Minister, albeit for perhaps understandable policy reasons. Nonetheless, the court cannot allow “have regard to” obligations to be elevated by stealth or in effect, directly or indirectly, into what would amount in practice to mandatory obligations, because to do so would undermine a distinction central to the orderly functioning of the planning code.”

He said that he will consider the significant matters that have arisen from the judgement and he will revert to Members once this is done. He said the court was meeting again to consider the further reliefs and it was hoped these would be decided in the Council’s favour.

SCÉIM NA MBÓITHRE ÁISE

Correspondence dated 26th October 2021 in response to the Council's letter dated 28th September 2021 in relation to Scéim na mBóithre Áise.

Members noted the correspondence from the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media.

[h] NOTICE OF MOTIONS

TO REQUEST 0% VAT ON ALL INSULATION AND 0% VAT ON INSULATION INSTALLATION COST

Councillor Ben Dalton O'Sullivan proposed, seconded by Councillor Mary Linehan Foley

“That Cork County Council would write to the Minister for Finance, The Minister for Older People and the Minister for the Environment to request 0% VAT on all insulation and 0% VAT on insulation installation costs”.

During this discussion the Members made the following points:

- Members said that people are struggling to afford to insulate their homes
- Insulation costs range from €6,000 to €24,000
- They said to have a rebate on VAT would help people with insulation costs
- Members stated that insulation has climate change benefits and will help lower emissions
- In trying to lower emissions, any rebate that can be given on this will encourage more people to make changes for the environment
- Members said waiting lists are too long and requested to write to the relevant Ministers
- Members asked that funding be made available to fast track the waiting list for applications

[K] VOTES OF CONGRATULATIONS

TO: Cloyne Ladies Gaelic Football Team on winning the County Final

TO: To St. Ita's Junior A Hurling Team on winning the Jamesy Kelleher Cup

TO: Dungourney GAA on the facility and hard work at the venue at the Jamesy Kelleher Cup

TO: Adam Daly who raised €25,600 for Bru Coumbanus and Jeep for Jason - West Cork Rapid Response.

TO: Ballygiblin Hurling Club on winning the North Cork Junior A Hurling championship final

TO: Kilworth GAA Club on winning the North Cork Junior A Football championship

TO: Transition Town Kinsale on the launch of the Energy Master Plan prepared for the P17 area

TO: Valley Rovers Ladies Football team who recently won the Intermediate county final

TO: Aghinagh GAA on winning the Mid Cork Junior A Football final

[I] ANY OTHER BUSINESS

9/11-1

GLASH COMMUNITY CENTRE

The group to seeking to avail of the Leader grant. The Chief Executive confirmed that query raised by Members will be examined by the relevant official.

9a/11-1

POINT TO POINT RACING

Councillor Pat Hayes proposed, seconded by Councillor Michael Hegarty

During this discussion, Members made the following points:

- Equestrian events are finding it difficult to get insurance for events
- Members said it is a huge industry for rural areas
- Equestrian bodies need to come together to find a solution
- Members proposed to write to the Minister of Agriculture to review the matter

~ THIS CONCLUDED THE BUSINESS OF THE MEETING ~