

**MINUTES OF THE MEETING OF THE
LAND AND PROPERTY SUB-COMMITTEE
HELD IN THE BANN VIEW COMMITTEE ROOM, CIVIC HEADQUARTERS
WEDNESDAY 5 SEPTEMBER 2018 AT 7:00 PM**

- Chair** : Councillor Knight-McQuillan (Chair)
- Present** : Alderman Hillis;
Councillors Baird, Fielding and Quigley
- Officers Present** : M Quinn, Director of Corporate Services
D Hunter, Council Solicitor
E Hudson, Senior Planning Technical Officer
E McCaul, Committee & Member Services Officer
R Gillen, Coast and Countryside Manager
- Non Sub-Committee
Members Present** Councillor P McShane

1. APOLOGIES

Apologies were recorded for Councillor C McShane

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

MOTION TO PROCEED 'IN COMMITTEE'

Proposed by Councillor Quigley
Seconded by Councillor Fielding and

AGREED - that Sub-Committee proceed to conduct the following
business 'In Committee'.

3. PRESENTATION – LIMAVADY BACKBURN PATH PUBLIC RIGHT OF WAY AND OWNERSHIP ISSUES – COAST AND COUNTRYSIDE MANAGER

3.1 Limavady Blackburn Path – Education Authority Request Update

The Land and Property Sub Committee received a presentation from the Coast and Countryside Manager (CCM) with regard to Blackburn Path, Public Right of Way and Council ownership issues.

During the presentation, the following points were made:

- The path has not been asserted a public right of way, but has existed for over 100 years.
- Council has no paper title but has been operating and maintaining the path.
- Public have enjoyed a right of way over the path, and it meets the criteria of a Public Right of Way

The Committee was reminded that correspondence has been received from the Education Authority asking Council to consider 2 requests regarding the pathway between the two schools leading onto the Blackburn Path and this was discussed at the Land and Property Sub-Committee meeting held on 2 May 2018.

At that meeting the Sub-Committee recommended that decision be deferred until further information was obtained from the Coast and Countryside Manager with regard to rights of way.

A site visit to the pathway between the schools was held on 23 August 2018 and included an invite to Limavady DEA Councillors.

Members were advised that that the Education Authority would be responsible for all costs attributable to this proposal and for obtaining all statutory consents.

Following the presentation the Sub-Committee was asked to consider the requests made by the Education Authority.

Part 1 Recommendation

It is recommended that - the Sub Committee grant approval to the request as detailed to utilise the front portion of the pathway leading onto the Blackburn Path, Limavady, in order to provide a shared entrance for the new shared education campuses being provided at both Limavady High School and St Mary's High School, Limavady.

Part 2 Recommendation

And to agree to defer a decision on the request as detailed at paragraph 1.12¹ of the May 2018 Correspondence Report at Appendix 1 (attached) and that further information regarding the request asking Council carry out and fund any improvements, alterations or addition of lighting and CCTV on the pathway to be brought back to the Land and Property Sub Committee following further investigation.

Following discussion the part 1 recommendation was amended.

Proposed by Alderman Hillis
Seconded by Councillor Quigley and

AGREED – that the Sub Committee recommend that Council approve the request as detailed to alter the front portion of the pathway leading onto the Blackburn Path, Limavady, in order to provide a shared entrance for the new shared education campuses being provided at both Limavady High School and St Mary's High School, Limavady subject to no impact on the right of way, planning permission being granted **and** without prejudice to any and all rights pertaining to the laneway currently existing or in the future determined.

AGREED - to defer decision on the request as detailed at paragraph 1.1.2 of the May 2018 Correspondence Report at Appendix 1 (attached) as follows

- a) Improve the condition of the pathway, to include additional lighting and CCTV
- b) Install gates at either end of the pathway to the Blackburn Path which would be closed and opened by the school during school core hours
- c) Remove the pathway

and that further information regarding this request be brought back to the Land and Property Sub Committee following further investigation.

* The Coast and Countryside Manager left the meeting at 7:37 pm.

¹ Item 3.1 – Limavady Blackburn Path – Correction paragraph 1.1.2, (not 1.12)

4. REQUESTS FOR USE OF COUNCIL LAND

The Sub-Committee received a confidential report previously circulated on requests for use of Council land.

There were 1 request to use Council land (Appendix 1), 2 repeat requests (Appendix 2) and 9 retrospective requests (Appendix 3) for the Sub-Committee to consider.

Further information including maps and photographs were made available at the meeting.

The following factors were taken into account when considering each request:-

- Right of way issues
- Setting precedent
- Impact on Council's strategy
- Valuation
- Long term impact on Council's asset
- Legal implications
- Health and Safety, Insurance, Risk Assessments and Event Management Plans

It is recommended that the requests listed at Appendix 1 are considered and recommendation made.

It is recommended that the requests at Appendix 2 and 3 are noted.

The Sub-Committee discussed the request to use Council land by for a Halloween funfair extravaganza in The Market Yard, Coleraine, between 14 October to 7 November 2018.

AGREED – to defer consideration of the request until charges were investigated and bring back potential charges back to Corporate Policy and Resources Committee

AGREED – to recommend that Council note the requests at Appendix 2 and 3, circulated.

Councillor Baird congratulated Council on the horse race that was held on Ballycastle Beach during the Auld Lammas Fair. She said for many it had been the highlight of the event. **NOTED.**

5. REQUESTS TO PURCHASE COUNCIL LAND

5.1 Ref 73/15 – Request to Purchase Land to the Rear of St James’ Lodge, Coleraine Road, Ballymoney

There was 1 request for the Sub-Committee to consider summarised within the report.

The following factors should be taken into account when considering each request:-

- 2.1 Right of way issues
- 2.2 Setting precedent
- 2.3 Impact on Council’s strategy
- 2.4 Valuation
- 2.5 Long term impact on Council’s asset
- 2.6 Legal implications

In June 2017 a report was taken to the Land and Property Sub Committee with the request to purchase an area of land to the rear of St James’ Lodge Nursing Home, Coleraine Road, Ballymoney. A copy of the relevant section of the report is attached at Appendix A of the report. This issue was originally raised with Ballymoney Borough Council in 2013 and Council ownership of the land has been confirmed.

The Land and Property Sub Committee recommended that Council defer a decision pending a site visit and further information.

A site visit took place on Monday 26 June 2017.

Council officers have investigated a Deed of Dedication which may form part of the King George V Fields of Trust and apply to this piece of land.

Fields in Trust have advised that if the areas proposed for sale fall within the dedicated land then Fields in Trust consent will be required. An application would need to be submitted through the established Field Change Request process and any such request would be considered in accordance with their published Disposals policy.

From the maps available it appears that both areas fall within the area designated as a Field in Trust.

If the Sub Committee agree to the sale of either piece of land, it would be subject to an updated valuation, Council's legal costs being covered by the purchaser and approval from Fields in Trust to sell the land.

Recommendation - The Sub Committee is asked to consider the information presented and make a recommendation, in principle, to the Corporate Policy and Resources Committee.

Proposed by Councillor Baird
Seconded by Councillor Quigley and

AGREED – that Officers seek further information from Fields in Trust on its initial views on the proposals received, and report back to Land and Property Sub-Committee.

6. LEASES/LICENCES

6.1 Ref 03/18P Limavady, Market Yard Site, Consent to Assignment of Title

The Sub-Committee considered a report previously circulated on the above site for consent to Assignment of Title.

The Land under Land Registry Folio LY71883L was transferred from Limavady Urban District Council by means of a 999 year lease from 1 May 1922.

As the site is leasehold (the Council being the Lessor), the consent of the Lessor is required to any Assignment of title.

A request has been received for Council to consent to reassignment of the lease from Curley's Properties Ltd to TJ Morris Ltd.

Extract from typed transcript of lease dated 8 November 1922.

".....and will not assign underlet or part with the possession of the said premises or any part thereof without the consent in writing of the Lessor provided that such consent shall not be unreasonably withheld"

It is recommended that Council grants the Consent to the Assignment of Title to TJ Morris Ltd.

Proposed by Councillor Fielding
Seconded by Alderman Hillis and

AGREED – that Council grants Consent to the Assignment of Title to TJ Morris Ltd.

7. LEGAL ISSUES – VERBAL UPDATE

Council's Solicitor updated Members on the following legal matters:

- Steele & Smith v Sweeney, Portballintrae Legal Case – Judgement listed for Laganside Court, Wednesday 18 September 2018
- Mark Street, Portrush – Portrush Regeneration Scheme
- Castle Erin – erection of fence – no response received at date of meeting. Bring back to Land and Property Sub-Committee.
- Giants Causeway & Bushmills Railway – details of Operating Agreement and Lease to be reviewed and brought back to Land and Property Sub-Committee.

* Councillors Baird and Fielding left the meeting at 8:35 pm.

* Councillor P Mc Shane left the meeting at 8.35 pm.

8. CORRESPONDENCE

The Sub-Committee were reminded that a report had been considered at meeting held 1 August 2018 requesting to restore the text on the sea wall at the Crescent, Portstewart at the applicant's expense.

The Sub Committee recommended that Council defer consideration pending further information regarding:

- Whether Planning considerations were required to be met
- The requirement for Health & Safety and Risk Assessments

The Planning Department has visited the site and confirmed most of the text is unreadable and barely discernible. The extent of the current text cannot be considered to be an advertisement as defined by the Land Development Values (Compensation) Act (Northern Ireland) 1965. Given that no advertisement is in place, advertisement consent is required to create an advertisement at this location.

An application for advertisement consent would need to be made to the Planning Department. The fee is currently £189.

The Corporate Health and Safety and Insurance Manager has considered the request and advised that provided the work is carried out by a competent person with appropriate risk assessment and the relevant required insurances in place the health and safety implications are reasonably minor. Just like any contractor on any Council lands.

The risks identified were:

- Working near water
- Poor surface for working
- Potential falls

Most of these are easily overcome with careful planning.

Recommendation - The Sub-Committee is requested to consider the correspondence and make recommendation on Council's position regarding the request to restore the text on the sea wall, the Crescent, Portstewart at the applicant's expense.

The Sub-Committee discussed the request, including absence of a policy and setting a precedent.

Proposed by Alderman Hillis
Seconded by Councillor Quigley and

AGREED - that the correspondence be deferred to the next Corporate Policy and Resources Committee.

MOTION TO PROCEED 'IN PUBLIC'

Proposed by Councillor Quigley
Seconded by Alderman Hillis and

AGREED - that Sub-Committee proceed to conduct the following business 'In Public'.

There being no further business the Chair thanked everyone for their attendance and the meeting concluded at 8.55pm.