

24th June, 2014

To: Each Member of Donegal County Council

I hereby give notice under Paragraph 7 of Schedule 10 of the Local Government Act 2001, having received a requisition from the Cathaoirleach pursuant to Paragraph 6 (1) (a) of said schedule, that a Special Meeting of Donegal County Council shall be held at 12.00 noon on Monday 30th June, 2014 in the Council Chamber, County House, Lifford, County Donegal to transact the following business, as set out in agenda contained within the aforementioned requisition. A copy of the requisition is attached.

AGENDA

To consider the Proposed Variation (No 2) to the County Development Plan 2012 – 2018 (as varied), and the Chief Executive's Report on submissions received in respect of it, as required pursuant to Section 13 of the Planning and Development Act 2000 (as amended).

Liam Ward
Meetings Administrator

MINUTES OF SPECIAL MEETING OF DONEGAL COUNTY
COUNCIL HELD ON 30TH JUNE 2014 IN THE COUNTY HOUSE
LIFFORD.

- C/345/14 MEMBERS PRESENT
Cllrs J Campbell (Cathaoirleach), L Blaney, E Bonner, C Brogan, P Canning, T Conaghan, G Crawford, N Crossan, A Doherty, R Donaghey, M T Gallagher, M Harley, N A Jordan, J Kavanagh, N Kennedy, F McBrearty, M McBride, J P McDaid, M McDermott, S McEniff, I Mc Garvey, P McGowan, B McGuinness, G McMonagle, J Murray, S O'Domhnaill, J S O'Ferraigh, B O'Neill, M Quinn, J Ryan, T Slowey.
- C/346/14 OFFICIALS IN ATTENDANCE
Mr Seamus Neely, Chief Executive , Mr Liam Ward, Director of Housing and Corporate & Planning Control, Meetings Administrator, Mr John McLaughlin, Director of Roads & Transportation, Mr Garry Martin, Head of Finance & Director of Emergency Services, Mr Joe Peoples, A/Director of Water & Environment, Mr Michael Heaney, Director of Community Culture & Planning, Mr Denis Kelly, Senior Executive Planner, Ms Sinead Harkin, Executive Planner, Mr Simon Harron, Executive Planner, Ms Colette Beattie, Assistant Planner, Ms. Ann Marie Conlon, Communications Officer, Ms Annemarie Crawford, Staff Officer,
- C/347/14 APOLOGIES
Apologies were received from the following who were unable to attend the meeting:-
Cllrs G Doherty, M Farren and O' Donnell.
- C/348/14 ADJOURNMENT OF MEETING
On the proposal of Cllr Donaghey, seconded by Cllr Gallagher it was resolved to adjourn the meeting to 2pm.
- C/349/14 ADJOURNMENT OF MEETING
On resumption it was resolved on the proposal of Cllr Mc Garvey, seconded by Cllr Crossan to adjourn the meeting for a further period until 3.00pm.
- C/350/14 ADJOURNMENT OF MEETING

Returning to the Chamber it was resolved on the proposal of Cllr McGuinness, seconded by Cllr Donaghey to further adjourn the meeting until 3.30pm.

The meeting resumed at 3.30pm and it was resolved on the proposal of Cllr McGarvey, seconded by Cllr Blaney to adjourn proceedings until 4pm.

C/351/14 CONSIDERATION OF PROPOSED VARIATION NO 2 TO THE COUNTY DEVELOPMENT PLAN 2012-2018(AS VARIED)

The Cathaoirleach informed Members that they were being asked to consider the following which had been circulated with the agenda:-

- 1) The contents of the Proposed Variation (No 2) to the County Development Plan 2012-2018 (as varied)
- 2) The Chief Executive Officers report on submissions received in respect of the proposed variation (No 2) to the County Donegal Development Plan 2012-2018 (as varied) as required by Section 13 of the Planning and Development Act 2000(as amended)
- 3) Appendix 1 to the Chief Executive Officers Report incorporating a list of persons and bodies who made submissions in respect of the proposed variation.

Members were now, he said, obliged to consider the proposed variation and decide to (1)make the variation with or without modification or (2) decide to materially alter the proposed variation (subject to further steps, including Strategic Environmental Assessment or Appropriate Assessment or both, followed by a further period of public consultation) or (3), decide not to make the variation.

Mr Denis Kelly, Senior Executive Planner informed Members that there were three broad themes to be considered namely:

- 1) To afford greater protection to Fresh Water Pearl Mussels through the inclusion of the catchments identified in the 6 Sub- Basin Management Plans as areas “Not Favoured” for wind energy development;

- 2) To afford greater protection to residential properties and centres of human habitation; and
- 3) To refine the Zone of Visual Influence of turbines within the context of Glenveagh National Park.

The Cathaoirleach advised that a vote would be taken in relation to the themes identified above and then opened the meeting to the floor.

Cllr Gallagher said it was difficult for new Members to take on board all the issues as this was an item which should have been dealt with by the previous Council.

Sinn Féin's position was clear, she added, in that they fully supported the amendments in order to protect individuals, families and the County in general. Acknowledging that a Ministerial Direction could be seen as a threat, she noted that nothing had in effect been done since 2006. The submissions, she said clearly reflected the views of the people and highlighted the need for such amendments. Policies, she added, were being dictated at national level and did not necessarily reflect the views of people on the ground. She called on her fellow Councillors to put the people of Donegal first.

Cllr Blaney said he was of the opinion that the variations had gone too far and that they would ultimately lead to no area of the County being favourable to wind development. He stated that there was adequate protection for the Fresh Water Pearl Mussel. More time was needed, he contended, to focus on the completion of the Landscape Character Assessment and outputs of the review of the National Guidelines. New Members, he said, needed to be better informed and thus called for the Chief Executive's Report to be accepted.

Cllr Brogan advised of the need for clarity in relation to the Landscape Character Assessment and the new National Planning Guidelines. New Members, he stated, had not received a copy of the Development Plan. He called on the Executive to provide guidance as to the options available at this juncture.

Cllr O' Domhnaill expressed concern regarding the lack of recompense for the communities involved and cited the need for proper protection measures to be put in place.

Tourism development, would, he noted, remain untapped if wind farm development was not curtailed. There was, he noted little evidence to date to show that these farms paid for themselves. The people of Donegal, he added, had spoken and it was clear that the variations as presented would not shut down the County for wind farm development but rather modify the overall wind energy policy for the betterment of all who lived in Donegal.

Cllr Mc Garvey outlined the need for adequate measures to protect communities and outlined the need for a 1 mile exclusion zone. He advocated also the need to develop alternatives to wind energy such as Hydro Power and Biomass.

Cllr Mc Guinness said he was not per se against wind energy but stressed the point that it should not impact on local communities. He outlined his support for the amendments in general noting that there were areas suitable for such development but that the difficulty was that they were outside of the national grid.

The Cathaoirleach said he was disappointed at some of the submissions from the prescribed bodies. This, he said, was not a blanket ban on wind farm development but rather an attempt to direct development to the most appropriate places and that there is a sufficient amount of areas remaining in this regard. He suggested that the process of material contravention could provide for consideration of proposals that might be demonstrated to be acceptable in 'Not Favoured Areas.' Considerable reference, he noted, had been made to the impending Draft Guidelines. These it was acknowledged were specifically aimed at dealing with issues such as noise and shadow flicker.

He advised that he was in favour of the variations to protect the Fresh Pearl Water Mussel and the amendment of the set back distance of ten times turbine tip height. He could not, he advised, support the removal of protection afforded to Glenveagh National Park.

Mr Seamus Neely, Chief Executive, said, he was, conscious of the fact that the process had straddled two Councils and reminded Members of the need to conclude the process on or before the 15th July, 2014.

Responding to a query from Cllr Brogan as to the impact of the impending Landscape Character Assessment and the new National Guidelines on the decisions to be taken, the Chief Executive Officer confirmed that the LCA was an evidence based piece of work involving local consultation and the publication of same depended on resourcing and the assumption that other planning issues would not be brought forward. It would, he added, be possible to ask the Department for a definitive view as to when the outputs from the review of the Wind Energy Guidelines 2006 would be ready.

He said that it was not possible at this stage to deal partially with the variation or to defer by including wording in the Variation to refer to the outcome of the Landscape Character Assessment.

Cllr O' Neill thus proposed, seconded by Cllr Brogan that consideration of the variation be deferred for one more week to allow the new Members become more familiar with the process.

After some debate on the proposal of Cllr Gallagher, seconded by Cllr Kennedy it was resolved that the Council proceed with the business in hand and vote on the variation as presented.

A show of hands was then taken by the Meetings Administrator in relation to the amendment as proposed by Cllr Gallagher.

This resulted in 14 voting for with 14 voting against.

The Cathaoirleach advised that he wished to exercise his right to a casting vote as per Section 12 2 (b) of Schedule 10, Local Government Act, 2001 and thus advised that he was in favour of proceeding with the vote on the variations to the County Donegal Development Plan 2012-2018 (as varied)

The amendment was carried and the Cathaoirleach proceeded to deal with Theme 1- Fresh Pearl Water Mussel regarding amendments numbered 1, 3 and 4 (as regards section 10.6.5,

point (b), text in blue) of the draft Variation as published for consultation on 5th April 2014.

Cllr Blaney at this juncture called for the Chief Executive's Report to be accepted and the variations parked and restarted only when the LCA and the National Guidelines became available. With regard to the issues raised in relation to residential amenity, he said, that he was of the opinion that a setback distance of ten times the tip height would effectively put a blanket ban on all wind farm development in the County.

The Cathaoirleach outlined his intention to proceed with the vote advising that this would give all Members the opportunity to accept or reject the Chief Executive's Report. All Members, he said, would have the option to bring about an amendment or revisit the matter at any stage.

Cllr Mc Monagle called for the vote to proceed.

The Chief Executive responding to a number of issues advised that Donegal County Council was the competent authority with regard to planning policy and on this occasion it was being asked to amend the policy which had previously in place. His role, he said, was to assist the Members understand the context of their reserved functions within the confines of the Planning Acts, the Guidelines and Regulations in place, including the obligation to comply with relevant legislation.

His recommendation was that the variations should not proceed and in the event that they were adopted, then the Minister for the Environment, Community & Local Government would have to be informed with regard to this change in operative policy.

Theme 1 Fresh Pearl Water Mussel regarding amendments numbered 1, 3 and 4 (as regards section 10.6.5, point (b), text in blue) of the draft Variation as published for consultation on 5th April 2014.

The Meetings Administrator informed Members that a vote in favour of the variation was a rejection of the Chief Executive's Report.

Mr Seamus Neely, Chief Executive advised that a rejection of the variation and a decision to materially alter the variation

would necessitate the matter going out again to public consultation.

The Cathaoirleach then asked if there were any proposals to vary, modify or alter the variation.

As there were no other proposals the Meetings Administrator proceeded to take a recorded vote in relation to amendments numbered 1, 3 and 4 (as regards section 10.6.5, point (b), text in blue) of the draft Variation as published on 5th April 2014.

This resulted in 16 Members voting for the amendments and 13 voting against.

Those voting in favour included :-

Cllrs Bonner, Campbell, Conaghan, Crossan, A Doherty, Gallagher, Jordan, Kennedy, Mc Brearty, Mc Garvey, Mc Guinness, Mc Monagle, Murray, O' Domhnaill, O' Fearraigh, and Quinn (16)

Those voting against included:-

Cllrs Blaney, Brogan, Canning, Crawford, Donaghey, Harley, Kavanagh, Mc Bride, Mc Daid, Mc Gowan, O' Neill, Ryan and Slowey. (13)

It was therefore resolved not to accept the Chief Executive's Report and to make the Variation to the County Donegal Development Plan 2012- 2018 (as varied) with Amendments 1 & 3 as published in the proposed Variation and with the text shown in blue in Amendment 4, section 10.6.5, labelled (b) as published in the proposed Variation. **(Vide Appendix 1)**

Theme 2 Residential Amenity/Set Back Distance of Ten Times Tip Height relating to the amendments numbered 2, 4 (as regards section 10.6.5, point (c), text in blue) & 5 as published in the draft Variation for consultation on 5th April 2014.

Cllr Blaney said, he believed that ten times the tip height was excessive and essentially a ban on wind farm development in the County. He proposed, seconded by Cllr Donaghey that wind turbines be located at a distance of 625 metres from residential properties and other centres of human habitation

Mr Denis Kelly, Senior Executive Planner, responding to Members queries said that, he believed that a change from ten times the tip height to 625 metres was a material change to the draft variation and would therefore necessitate a further period of public consultation.

A number of queries were raised as to the cost involved in putting this alteration out to public consultation with Members being informed that advertising costs would be extensive and that there would also be resource implications.

Mr Liam Ward, Meetings Administrator advised that a vote would be taken firstly in relation to the amendment as proposed by Cllr Blaney to amend the set back distance to 625 metres.

As there were no other proposals the Meetings Administrator proceeded to take a recorded vote in relation to the amendment which was a Material Alteration to the Draft Variation, to change the separation distance from 'ten times turbine tip height' to '625m'.

This resulted in 14 voting for with 16 voting against.

Those voting in favour included :-

Cllrs Blaney, Bonner, Brogan, Canning , Crawford, Donaghey, Kavanagh, Mc Bride, Mc Daid, Mc Dermott, McGowan, O'Neill, Ryan and Slowey (14)

Those voting against included:-

Cllrs Campbell, Conaghan, Crossan, A Doherty, Gallagher, Harley, Jordan, Kennedy, Mc Brearty, Mc Garvey, Mc Guinness, Mc Monagle, Murray, O' Domhnaill, O'Ferraigh and Quinn (16)

The Meetings Administrator declared the amendment lost.

The Cathaoirleach proceeded to take a recorded vote in relation to amendments numbered 2, 4 (as regards section 10.6.5, point (c), text in blue) & 5 as published in the draft Variation for consultation on 5th April 2014.

This resulted in 18 voting for with 11 voting against and 1 abstention.

Those voting in favour included :-

Cllrs Campbell, Canning, Conaghan, Crawford, Crossan, A Doherty, Gallagher, Harley, Jordan, Kennedy, Mc Brearty, Mc Garvey, Mc Guinness, Mc Monagle, Murray, O' Domhnaill, O' Fearraigh and Quinn (18)

Those voting against included:-

Cllrs Blaney, Brogan, Donaghey, Kavanagh, Mc Bride, Mc Daid , Mc Dermott, Mc Gowan, O' Neill, Ryan and Slowey (11)

Cllr Bonner abstained from voting.

It was therefore resolved not to accept the Chief Executive's recommendation and to make the Variation to the County Donegal Development Plan 2012- 2018 (as varied) with the insertion of text shown in blue in Amendments 2 & 5 as published in the proposed Variation and with the text shown in blue in Amendment 4, section 10.6.5, labelled (c) as published in the proposed Variation. (**Vide Appendix 1**)

Theme 3 Glenveagh National Park relating to the amendment numbered 4 as regards deletion of text shown in strikethrough and labelled 10.6.5 (a) and 10.6.6 together with insertion of text shown in blue in Amendment numbered 4, labelled 10.6.6, as published in the draft Variation for consultation on 5th April 2014.

The Meetings Administrator informed Members that a vote in favour of the variation was contrary to the Chief Executive's recommendation.

Members at this juncture requested additional clarity and the Meetings Administrator in response drew their attention to the wording at 10.6.6. The variation, he confirmed, consisted of the text highlighted in blue print and if accepted would replace the text shown in strikethrough.

The Cathaoirleach further advised that the acceptance of the blue text would reduce protection for Glenveagh National Park .

A recorded vote was taken by the Meetings Administrator, however a number of Members expressed concern at this juncture as to the actual decision that was required.

The Meetings Administrator after providing additional clarification proceeded to retake the vote on the variation relating to the zone of visual influence at Glenveagh National Park.

This resulted in 9 voting for with 21 voting against.

Those voting in favour included:-

Cllrs Brogan, Donaghey, Kavanagh, Mc Bride, Mc Daid, Mc Dermott, Mc Garvey, Mc Gowan and O'Neill (9)

Those voting against included:-

Cllrs Blaney, Bonner, Campbell, Canning, Conaghan, Crawford, Crossan, A Doherty, Gallagher, Harley, Jordan, Kennedy, Mc Brearty, Mc Guinness, Mc Monagle, Murray, O' Domhnaill, O' Fearraigh, Quinn, Ryan, and Slowey (21)

It was therefore resolved to accept the Chief Executive's recommendation and make the Variation to the County Donegal Development Plan 2012- 2018 (as varied) without the deletion of text shown in strikethrough and labelled ~~10.6.5 (a)~~ and ~~10.6.6~~ of amendment numbered 4 as published in the draft Variation for consultation on 5th April 2014 and therefore not to make the variation with the insertion of text shown in blue and labelled 10.6.6 and therefore to make the Variation without any changes to section 10.6.6. (**Vide Appendix 1**)

This concluded the business of the meeting.

Appendix A to the minutes of the Special Meeting of Donegal County Council held on 30th June 2014 in the County House, Lifford.

Variation no 2 to the County Donegal Development plan 2012-2018 (as varied) as made by Members of Donegal County Council on 30th June 2014.

Introduction

At the meeting of Donegal County Council on 30th June 2014, the Members decided to make a Variation (No.2) to the County Donegal Development Plan 2012- 2018 (as varied). The content of the Variation is set out on the following pages.

(Note: Deletions of text are shown in black ~~striketrough~~; insertions of text are shown in [blue lettering](#)).

Amendment No. 1:

Amend the text at Chapter 7, section 7.2.1, page 108 of the Core Document, in relation to area identified as 'Not Favoured' so that it reads as follows (NB: New text in [blue](#)):

Not Favoured – Areas where wind energy proposals will not be favoured have been identified due to the significant environmental, heritage and landscape constraints. These include; SAC and SPA (Natura 2000) Sites, NHAs, unspoiled areas of EHSAs, Areas of Fresh Water Pearl Mussel [including the catchments identified in the Sub-Basin Management Plans for Clady Eske, Glaskeelin, Leannan, Owencarrow and Owenea \(as listed in S.I. 296 of 2009\)](#), important views and prospects. It is considered that these areas have little or no capacity for wind energy development.

Map 9 Wind energy highlights the 'Area Open to Consideration' and the 'Not Favoured areas'.

The Council recognise the opportunities arising from the use of more efficient turbines on established windfarms, as they generate much higher energy yields per turbine, thereby reducing the need for additional turbines. In most cases the infrastructure, roads, hardstand, turbines, sub station and fences have already been established, so there should be limited additional impact.

To reflect the increasingly complex interaction of the issues involved in considering wind energy proposals the Council is committed to further

developing the Renewable Energy Strategy that recognises the potential role of the county in energy generation in the context of the proper planning and sustainable development of the area. The wind energy policies herein must be considered in the context of the development and technical standards relating to wind energy set out in Chapter 10 and in the context of all other relevant objectives and policies set out in this Plan.

Amendment No. 2

Insert a new objective at Chapter 7, section 7.2.2, page 109 of the Core Document so as to state (NB: New text in blue):

E-O-6: To ensure that wind energy developments do not adversely impact upon the existing residential amenities of residential properties, and other centres of human habitation (as defined at 10.6.7) in Chapter 10 Development and Technical Standards.

Amendment No. 3

Amend Map 9, 'Wind Energy' to show the addition of 6 Sub-Basin Catchments of SAC populations listed in S.I. 296 of 2009 (First Schedule) for the Fresh Water Pearl Mussel as 'Not Favoured for Wind Energy Developments' as shown in accordance with the Appendix 1 of this document.

Amendment No. 4

Amend the text at Chapter 10, section 10.6.5 of the Core Document so as to read as follows (new text shown in blue; text for deletion shown in strikethrough).

- 10.6.5** Wind turbines must meet the requirements and standards set out in the DEHLG Wind Energy Development Guidelines 2006, or any subsequent related Guidelines and in addition must not be located within:
- (a) The zone of visual influence (ZVI) of the Glenveagh National Park
 - (b) The zone of influence/ flight path at Donegal Airport.
 - (c) The 6 Fresh Water Pearl Mussel (S.I. 296 of 2009) catchments contained in the Freshwater Pearl Mussel Sub-Basin Management Plans for Clady, Eske, Glaskeelin, Leannan, Owencarrow and Owenea.
 - (d) A set back distance of ten times the tip height of proposed turbines from residential properties and other centres of human habitation.

Amendment No. 5

Insert new text into the Core Strategy at Chapter 10 as section 10.6.7 so as to state as follows (New text shown in blue):

10.6.7 Centres of Human Habitation

Definition:-

'Centre of Human Habitation' includes schools, hospitals, churches, residential buildings or buildings used for public assembly'.

